FAMILY LAW IN MANITOBA 1985

Manitoba
Attorney General

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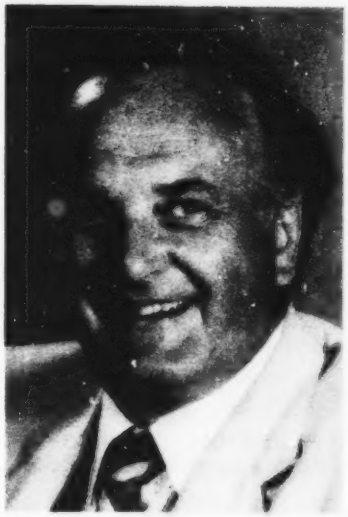
Prepared and written by the
Department of the Attorney-General.

This booklet is based on family law in Manitoba as of January 1, 1985 and is intended to provide general information only. How the law will affect any person will depend on the facts of each case. Also, the law may change from time to time. If you have a legal problem or need specific advice, it is best to consult a lawyer.

THE PREMIER OF MANITOBA
WINNIPEG R3C 0V8

A Message from the Premier

January 1, 1985.



The Government of Manitoba views family law as one of the keystones of our social policy. We are fully aware of the stress which modern society places on family life and we are particularly mindful of our responsibility as a Government to children.

I am proud to have been associated with current developments in family law both in my capacity as Attorney-General in the early '70's and now as Premier of the Province.

It is of the utmost importance that people be aware of laws, particularly those which affect their lives so directly. The publication of this booklet is a contribution to that knowledge. It is made available in the hope that not only the law, but government services and programs available to Manitobans will become better known.

I commend it to all Manitobans who share our concern about the importance of the family in contemporary society.

Howard Pawley

Howard Pawley
Premier

ATTORNEY-GENERAL OF MANITOBA
WINNIPEG R3C 0V8

A Message from the Attorney-General

January 1, 1985.

Throughout Canada, and even beyond our national borders, Manitoba is recognized as a leader in progressive and fair legislation affecting the family. Over the last three years, legislation has been passed and programs developed to assist all members of families that have broken down. Special attention has been given to the protection of women and children, who all too often are the victims of family violence and family breakdown.

Procedures have been changed to improve access to the legal system, and to increase the efficiency of the court system.

All of these changes are part of the laws and procedures described in this booklet, written in clear and simple terms. I would like to give credit to the excellent work done in the preparation and writing of this booklet by Robyn Moglove Diamond and Gail E. Mildren of my Department.

Laws and legal procedures must be regularly reviewed to make sure they are keeping pace with society's changes. The Government is committed to such reviews and to continue to provide services for people in need.

As this booklet goes to press, the Federal Minister of Justice has announced that there will likely be amendments to the Divorce Act introduced in the Federal Parliament early in 1985. It is likely that the most important of these amendments will permit a divorce after one year on the general ground of the breakdown of the marriage. In addition, my colleague, the Honourable Muriel Smith, Minister of Community Services, hopes to introduce a new Child and Family Services Act this year which would replace the existing Child Welfare Act.

Once the changes to these two Acts are made, supplementary bulletins will be available upon request.

If, after reading this booklet you have any questions or concerns or recommendations, please feel free to write my Department.

Roland Penner

Roland Penner
Attorney-General

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THE MARRIAGE ACT OF MANITOBA

There are a number of legal requirements which must be met before a man and woman may be married in Manitoba.

Usually, both persons must be over 18 years of age before they can marry. If a child over 16 and under 18 years of age wishes to marry, written consent from his or her parents or, where the parents are dead, from his or her guardian is required. Alternatively, written consent to the marriage can be given by a judge. If the child is in the custody and care of a child caring agency or of the Director of Child Welfare, the written consent of the Director or of a judge is needed.

A child 16 years of age or less can marry only if a judge has given written consent to the marriage.

A person who has been divorced, or whose spouse has died, may remarry without the consent of any other person, no matter how old he or she is.

A person who has been certified to be mentally disordered may be married if a written certificate stating that he or she is able to understand the duties and responsibilities of marriage is obtained from a psychiatrist.

A man and woman who are related may be prevented by law from marrying. For example, a brother and sister can not legally marry each other.

Before a man and woman can be married, they must apply together for a marriage licence, unless they both regularly attend a place of worship and "banns" declaring their intention to marry have been proclaimed during a service of worship. In Winnipeg, an application for a marriage licence may be made at the Office of Vital Statistics. In areas outside Winnipeg, the application may be made at the nearest Office of the Court of Queen's Bench. For a list of these Court Offices, see Appendix A at pages 33 to 34. In addition, a marriage licence may be obtained from authorized businesses throughout the Province.

A marriage licence must be obtained at least 24 hours before the wedding, unless the person performing the marriage ceremony is satisfied that there are exceptional circumstances requiring this time period to be shortened. The wedding must take place within 3 months after the licence was issued.

A person may be legally married by means of a religious ceremony or a civil ceremony. A civil ceremony is a non-religious ceremony and must be performed by a marriage commissioner. The Offices of the Court of Queen's Bench have a list of the marriage commissioners who are authorized by law to perform civil marriage ceremonies in Manitoba.

A marriage ceremony, whether religious or civil, may take place anywhere in the Province of Manitoba — for example, in a church, a private home, a park or a hotel.

For further details with respect to the requirements which must be met before entering into a marriage, and the relationships which prevent a legal marriage, contact:

Vital Statistics
104 Norquay Building
401 York Avenue
Winnipeg, Manitoba
R3C 0P8
Telephone: 945-3701

◆Children

The Family Maintenance Act of Manitoba provides that parents who have lived together after the birth of their child have equal rights with respect to the custody and control of that child. This includes the right to make decisions on matters such as education and religious training.

Also, both parents are equally responsible for the financial support ("maintenance") of their children. Usually this responsibility ends when a child turns 18 years of age. However, since October 1, 1983, if an application is made to court and a judge is satisfied that a child is unable to support himself or herself because of illness, disability or some other reason (such as the cost of continuing his or her education), the judge may order that either parent, or both, continue to support the child after the age of 18. For example, if a child is attending an educational institution full-time, a judge may order that a parent continue to support the child after the age of 18.

A step-parent has a duty to financially support the children of his or her spouse while the children are in the custody of the step-parent and the spouse. However, this duty arises only to the extent that the parents do not, or are unable to, support the children.

A child under 18 years of age cannot apply to court on his or her own. Where a child requires a court to order payments of maintenance from a parent, the application must be made on his or her behalf by an adult. This adult is called a "next friend" and can be a parent, guardian, relative or any other person interested in the child's welfare.

◆Financial Support for Spouses

The Family Maintenance Act provides that both spouses have a duty to financially support and maintain each other while living together. This duty can be met by earning income outside the home or by running the household, for in both situations the spouses are making an equal contribution to the welfare of the family.

The right of a spouse to receive financial support ("maintenance") from the other spouse while they are living together includes the right to receive reasonable amounts for clothing and other personal expenses from time to time, and the right to spend this money without interference from the other spouse.

◆Financial Information

The Family Maintenance Act provides that spouses have the right to request and receive financial information from each other. For example, a spouse is entitled to information such as copies of income tax returns, and copies of statements of wages, debts and liabilities. If one spouse is unwilling to make this financial information available, the other spouse may apply to court for an order that the information be provided. If a spouse does not obey such an order, he or she may be required to pay to the other spouse a penalty of up to $5,000. This right to financial information exists even when the spouses are living together.

◆Property

Property acquired by either spouse, or both, during the marriage (''marital property'') is divided into two categories by The Marital Property Act of Manitoba: ''family assets'' and ''commercial assets''

Use of Family Assets During Marriage

Marital property located in Manitoba which is owned by one or both spouses and which is used for family purposes such as shelter, transportation or recreation, is a ''family asset''. Examples of family assets are the marital home, household furniture and appliances, the family car, the summer cottage, the lawn mower and gardening tools.

During the marriage, both spouses have the same right to use and enjoy family assets. This is the case even if a family asset is owned by one spouse alone. However, one spouse does not have any right to use the other spouse's personal possessions (for example, clothing and other items that not are usually used by both spouses).

The actual ownership of a family asset does not change during the marriage. The law simply gives a non-owning spouse the right to use and enjoy that asset while it is in the family. With the important exception of the marital home, any family asset owned by one spouse alone can be sold or otherwise dealt with by him or her during the marriage, unless such actions would seriously threaten the financial security of the family.

The most important family asset is usually the marital home. The marital home is any property used by the spouses as a family residence, and can be owned or rented by one or both of the spouses. For example, the marital home can be a house, farm house, apartment, trailer, or a condominium.

Both spouses have the same right to occupy and enjoy the marital home during the marriage, even if the home is owned by only one spouse.

Because of its importance to the family, special protection is given to the marital home by The Dower Act of Manitoba. Where both spouses are registered as the owners of the marital home, *both* must agree in writing to any sale, mortgage, rental or other transaction involving it. Where the marital home is owned by one spouse only, the written consent of the other spouse must be given before the owner-spouse can sell, mortgage, rent or otherwise deal with the marital home.

Where the spouses live on a farm, the special protection given by The Dower Act applies not only to the farm dwelling but to part of the farm land. The total amount of farm property that is protected is 320 acres.

Use of Commercial Assets During Marriage

Marital property located in Manitoba which is owned by one or both spouses and which is not a family asset is a ''commercial asset''. For example, an interest in a business such as a drug store, construction company, grocery store, restaurant, medical practice or law practice is a commercial asset. During marriage, one spouse does not have the right to use and enjoy a commercial asset that is owned by the other spouse.

Accounting & Division of Marital Property During Marriage

It is possible for a spouse to apply to court for an ''accounting and division'' of the marital property even if the spouses are living together. For further details see pages 11 to 12.

The Pension Benefits Act Of Manitoba

The Pension Benefits Act of Manitoba applies to pension plans sponsored by an employer for employees in Manitoba. It does not apply to the Canada Pension Plan, to federal government employees or to personal pension plans (such as a Registered Retirement Savings Plan).

As of January 1, 1984, every pension plan to which the Act applies must state that the pension benefits payable to a married plan member will be in the form of a *joint pension*. This type of pension provides the spouses with a monthly pension guaranteed for the lives of both of them. In the past, many pension plans guaranteed payments only for as long as the plan member lived, leaving the surviving spouse with no pension income.

In addition, the pension plan must provide that, after the death of either the plan member or the spouse, the survivor will receive pension benefits that are not less than two-thirds of the amount of the original benefits. If they wish to do so, the spouses may give up this protection by completing and signing a ''Spousal Waiver'' form.

The regulations under the Act require that an employer provide a yearly statement about the pension plan to every plan member. In addition, the spouse of a plan member is entitled to receive a copy of this statement if he or she requests it. For more information about The Pension Benefits Act, contact:

The Pension Commission
1004-401 York Avenue
Winnipeg, Manitoba
R3C 0V8
Telephone: 945-2740

A GENERAL DESCRIPTION OF COURT PROCEDURES IN FAMILY LAW

As family law matters are very important and serious, and affect the whole family, it is wise to seek the assistance of a lawyer if you are involved in a family dispute. For information about obtaining legal advice, see page 31.

The following description of court procedures is very general and may not apply in every situation. Every case will have its own unique elements.

People involved in a legal dispute are called "the parties". When a person wants the assistance of the court, he or she must request this assistance by making an application to court. This is done by filing specific documents in the court office. Once these documents have been filed, the court proceedings have been started.

The other party involved in the dispute (such as a spouse, a common-law spouse or a parent) must usually be notified of the application so that he or she will also have an opportunity to present his or her position to the court. However, if the other party cannot be found and notified, the court may still deal with the matter.

A date will have to be set for the "court hearing". At the court hearing, each party will have an opportunity to testify under oath and to call witnesses to testify on his or her behalf. Everyone who testifies at a court hearing may also be questioned by the other party or his or her lawyer ("cross-examined").

Once the hearing is completed, the court will make a decision based on all the evidence, which includes the sworn testimony, cross-examinations and any documents filed with the court.

Often, it takes a long time for a family law matter to be completed. For this reason, either party may apply to court for a temporary order called an "interim order" at any time after court proceedings have been started. Such an order provides immediate relief until the court proceedings can be completed. This type of order is particularly important where the dispute between the parties involves questions of custody of children or of financial support (maintenance).

When an application for an interim order is made, each party usually gives his or her evidence by means of a sworn document called an "affidavit".

◆The Difference Between Separation And Divorce

Spouses who have *separated* are still legally married, even if there is a court order of separation. The laws which apply to separated spouses who are not seeking a divorce are passed by the Province of Manitoba. These laws deal with matters such as custody of children, access to children and financial support for separated spouses or their children.

The laws which apply to spouses who are *seeking a divorce* are passed by the Government of Canada and are the same throughout all of Canada. The federal Divorce Act, which sets out the grounds upon which a divorce can be obtained, also deals with matters related to divorce, such as custody, access and financial support for divorcing spouses or their children.

When a court grants a divorce at the request of either spouse, the marriage is ended.

The laws relating to custody, access and financial support for separated spouses will be different from the laws relating to custody, access and financial support for spouses seeking a divorce.

◆Separation

A husband and wife may simply live apart without a court order or a formal separation agreement. However, it is wise for separating spouses to have a separation agreement or to apply for a court order, particularly if there are children, or if there are questions of property or financial support.

Separation Agreements

A husband and wife may enter into a written agreement upon separating. This "separation agreement" is a legal contract, and each spouse should obtain advice from his or her own lawyer before signing it.

A separation agreement will usually deal with matters such as:

- custody of the children;
- visiting arrangements for the spouse who does not have custody ("access");
- financial support ("maintenance") for the children and the dependent spouse;
- division of the marital property;
- the right to live in marital home;
- responsibility for family debts.

If the spouses have difficulty in agreeing on such matters, they may seek professional assistance from a "mediator", who will help the spouses resolve their differences. Social services agencies provide this type of service. In addition, if the dispute involves custody of or access to children, the Family Conciliation Service attached to the Family Division of the Court of Queen's Bench may be able to provide assistance to the spouses at no cost. For assistance or further information contact:

Family Conciliation
9th Floor — 405 Broadway Ave.
Winnipeg, Manitoba
R3C 3L6
(Telephone: 945-7236)

Where there is a provision dealing with the payment of maintenance in a separation agreement, it may be possible to apply to court for an order setting this provision aside if:

- the spouse responsible for paying maintenance under the agreement has not made the payments; or
- the maintenance payments provided for in the agreement were not adequate in light of the circumstances of both spouses at the time the agreement was made; or
- the dependent spouse is now receiving, or is in need of, government social assistance.

In any of these circumstances, a judge may decide to set aside the maintenance provision in the agreement and substitute a court order of maintenance.

A separation agreement is not a court order. Therefore, a provision for the payment of maintenance in a separation agreement *cannot* be enforced through the Maintenance Enforcement Program discussed at pages 18 to 19. If the spouses wish the maintenance payments to be made and enforced through the Maintenance Enforcement Program, they should apply to court for a *consent order* of maintenance.

Even though it is not a court order, a separation agreement is a contract. If one spouse fails to fulfill his or her duties under the agreement, the other spouse may sue.

Court Order Of Separation

Either a husband or a wife may apply to court under The Family Maintenance Act for a court order of separation. It is no longer necessary to prove any fault or misconduct by the other spouse to obtain a court order of separation. Even where a spouse has caused the marriage breakdown, he or she may apply to court for an order of separation.

Where such an application is made, and the judge feels that there is a possibility that the spouses may be able to reconcile, the judge may postpone the proceedings to allow the spouses to consult a marriage counsellor.

A court order of separation may also deal with matters such as the custody of children, the right to visit the children ("access") and financial support for the children and the dependent spouse ("maintenance"). These matters are discussed immediately below.

Other Relief Available From The Court Upon Separation

Either separated spouse may apply to court at any time for an order with respect to matters such as custody, access and maintenance.

Where both spouses agree to the provisions to be contained in the court order, a judge may grant a "consent order" without hearing any evidence.

Where the spouses cannot agree, the judge will hear the evidence of both spouses and their witnesses with respect to the issues on which they cannot agree before deciding what provisions the order should contain.

Order of Custody Where there is no court order of custody, both parents have an equal right to the custody, care and control of their child if they have lived together after the birth of the child.

Both parents have the right to ask the court for sole custody of any children upon separation. Even a parent who is responsible for the breakdown of the marriage has this right.

In deciding which parent should have custody of a child, a judge is interested only in what is in the *best interests of the child*. The judge will consider such things as the ability of each parent to provide love, a stable and healthy home for the child, and the relationship between each parent and the child. In the case of an older child, the wishes of the child may also be considered. Unless it relates directly to the parent's ability to care for the child, the judge will not hear evidence about the behaviour of either parent.

The judge may order that custody of the child be given to one spouse or the other, or to both ("joint custody").

It is important to note that a separated parent without custody has the same rights as the parent with custody to receive school, medical, psychological, dental and other reports about the child. A court order giving these rights is not

needed because the right of a parent without custody to be involved in the life of his or her child is automatic. These rights can be taken away only by a court. A court will take away these rights only if it is in the best interests of the child to do so.

Order Of Access A judge may order that the parent who has not been given custody of a child have the right to visit with the child ("access"). In deciding whether an order granting access should be made, the judge is interested only in whether it is in the *best interests of the child* that these visits take place. One important purpose of these visits is to encourage a healthy relationship between the parent without custody and the child.

If the parents cannot agree when and where visits are to take place, the judge will deal with these matters in the order.

Order Of Financial Support For Children Both parents have an equal

duty to provide financial support ("maintenance") for their children, whether or not there is a court order. This responsibility exists even where a parent does not have custody of the children and has no visiting rights. If a parent has remarried and started a new family, there is still a duty to support his or her children of a previous marriage.

The parent who has custody of a child may apply to court for an order that the other parent pay maintenance for the support of the child. In deciding how much should be paid, a judge will consider matters such as the cost of housing and living expenses for the child, the cost of providing a stable home for the child, and the financial circumstances of each parent.

Usually the responsibility of a parent to support a child ends when the child reaches 18 years of age. However, if an application is made to court, and a judge is satisfied that the child is unable to support himself or herself because of illness, disability or some other reason (such as the cost of continuing his or her education), the judge may order that the parent continue to support the child beyond the age of 18.

Order Of Financial Support For A Spouse During the marriage, both spouses have a duty to financially support and maintain each other. On separation, each spouse must try to become self-supporting and financially independent of the other spouse. This will usually mean looking for a job, or obtaining further training or education.

The Family Maintenance Act recognizes that it is not always possible for a spouse to become self-supporting after a separation. It therefore provides that a dependent spouse may apply to court for an order that the other spouse pay maintenance for his or her support. Some people call these maintenance payments "alimony".

In deciding how much maintenance should be paid, a judge considers the financial needs of the spouse requesting maintenance and the ability of the other spouse to pay. Circumstances such as the standard of living of both spouses, any property settlements, and any obligation to provide support for others will be considered by the judge.

Financial need, not the behaviour of the spouses, is the basis for a judge granting an order of maintenance under The Family Maintenance Act of Manitoba. Even where the applicant spouse has caused the marriage breakdown, he or she may be entitled to receive maintenance.

Orders Of Protection A spouse may apply to court at any time for an order providing that:

- the other spouse must not molest, annoy or harass him or her, or any child in his or her care;
- the other spouse must not enter the residence or place of employment of the spouse;
- he or she has the exclusive right to live in the marital home. Such a provision would prevent the other spouse from living in the marital home even if he or she owns it;
- where he or she has been given the exclusive right to live in the home, any right of the other spouse to sell, rent, or dispose of the marital home be postponed.

In addition, if at any time the safety of a spouse, or his or her children, is threatened, the police should be contacted immediately for assistance. For other protection and help available to an abused spouse, see the section on Violence In The Family, at pages 16 to 17.

Appealing a Court Order

If either spouse is unhappy with the decision of a judge on any matter, he or she may appeal that decision to a higher court. An appeal to the Manitoba Court of Appeal must be started within 14 days of the decision.

Changing a Court Order

If the circumstances of either spouse change after an order has been granted, an application may be made by either of them to the court that made the order to have the order reviewed and changed ("varied").

Usually, these applications are to vary orders dealing with custody, access or maintenance.

Relief Available Where One Spouse Does Not Live In Manitoba

Custody Of And Access To Children Where no court order of custody or access exists and the children live in Manitoba, a parent who wants an order granting custody or access must apply to a Manitoba court. This is the case even if that parent lives outside Manitoba.

Financial Support For A Spouse Or Children Living In Manitoba Where there is no court order for the payment of maintenance for the support of a spouse or children living in Manitoba, and the other spouse or parent lives outside Manitoba, it may still be possible to obtain a maintenance order with the assistance of the Manitoba courts.

A spouse living in Manitoba may apply to a Manitoba court under The Family Maintenance Act for an order of maintenance. If the spouse outside Manitoba is served with notice and agrees to have the Manitoba

court deal with the matter, a hearing may be held in Manitoba and the court may make an order of maintenance that is valid and enforceable outside Manitoba.

If the spouse outside Manitoba does not agree to have the Manitoba court deal with the matter, or it is believed he or she will not agree, and he or she resides in a *"reciprocating state"*, the spouse living in Manitoba may apply to a Manitoba court under The Reciprocal Enforcement of Maintenance Orders Act for a "provisional order of maintenance".

A "reciprocating state" is a province, state or country which has entered into a formal agreement with the Province of Manitoba to assist Manitobans in obtaining and enforcing orders for the payment of maintenance against a resident in that province, state or country. A list of the present reciprocating states is found in Appendix B at page 35.

An application for an order for the payment of maintenance under The Reciprocal Enforcement of Maintenance Orders Act involves two stages:

(i) a hearing will be held in a court in Manitoba, in the absence of the spouse living outside Manitoba and without notice to him or her, to obtain a *provisional order* of maintenance. The spouse applying for maintenance must prove that he or she, or the children, would be entitled to maintenance under The Family Maintenance Act. The order made at this hearing has no effect, and no maintenance is payable, until the other spouse has an opportunity to attend a hearing before a court in the reciprocating jurisdiction in which he or she lives. The evidence heard by the court in Manitoba will be taken down and sent to the court in the jurisdiction where the other spouse lives;

(ii) a hearing will then be held by that court to *confirm* the provisional order. At this hearing, the other spouse will have an opportunity to present his or her evidence. The applicant spouse living in Manitoba is not required to attend this hearing or to hire a lawyer for this hearing. The court will determine whether the provisional order of maintenance made in Manitoba should be confirmed and what amount of maintenance should be paid. The order made by this court is a *final order* of maintenance and is enforceable.

An order for payment of maintenance which has been made in the above manner may be varied by either spouse if their circumstances change. Usually, this will involve a similar two stage procedure.

Varying an Order of Financial Support Made In Another Province Before 1983, to vary an order of maintenance made by a court in another province, it was necessary to go to that province for a court hearing. This was necessary even when both spouses had left that province and were living somewhere else. The procedure was slow and very expensive, causing great hardship.

In 1983, the law was changed to assist people who need to vary a maintenance order made in another province. However, the new law only applies in very limited circumstances. It is therefore necessary to see a lawyer to determine if the new law applies to a particular order.

These new procedures do not apply to a provision ordering the payment of maintenance contained in an order made by a court granting a divorce.

◆Divorce

The Divorce Act of Canada provides that spouses cannot obtain a divorce simply by agreeing to it. There must be an application to court for a divorce and the spouse applying must prove at least one of the "grounds" for divorce set out in the Divorce Act.

In addition, a person cannot apply for a divorce unless that person, or his or her spouse, has been a resident of the province where he or she is applying for the last 12 months and has actually lived in that province for at least 10 months of that period.

Some Grounds For Divorce

The most common grounds for obtaining a divorce are:

- marriage breakdown
- cruelty
- adultery

Marriage Breakdown Either spouse may apply for a divorce on the grounds of marriage breakdown. Marriage breakdown is normally proved by showing that the spouses have been living separate and apart for not less than *three* years.

However, if one spouse has deserted the other and wishes to use marriage breakdown as a ground for obtaining a divorce, the deserting spouse must prove that they have been living separate and apart for not less than *five* years. A spouse has deserted the other spouse when he or she leaves the marital home or when his or her behaviour has forced the other spouse to leave the marital home.

In certain circumstances, marriage breakdown can also be proved by establishing lengthy imprisonment, serious addiction to alcohol or narcotics, non-consummation of the marriage, or that the other spouse has been guilty of a sexual offence or bigamy.

Cruelty Cruelty entitling a spouse to a divorce is any kind of mistreatment by the other spouse which makes living together unbearable. Cruelty includes physical abuse, but it is not limited to acts which cause physical harm; it also includes acts that cause *serious* mental anguish. A spouse requesting a divorce on the ground of cruelty must prove to the court that the cruelty occurred and that it seriously affected him or her.

A spouse may apply to court for a divorce on the ground of cruelty at any time. There is no waiting period required. For other protection and help available to abused spouses, see pages 16 to 17.

Adultery A spouse may seek a divorce where he or she is able to prove to the court that the other spouse has committed adultery during the marriage. Adultery means that the spouse has voluntarily had sexual intercourse with a person other than his or her spouse. For example, if the spouses are separated and one spouse commits adultery, the other spouse can rely on this adultery as a ground for divorce.

A spouse may apply to court for a divorce on the ground of adultery at any time. There is no waiting period required.

Decree Nisi And Decree Absolute of Divorce

Where an application for a divorce is made and a judge feels that there is a possibility that the spouses may be able to reconcile, the judge may adjourn the proceedings to give the spouses an opportunity to consult a marriage counsellor for assistance.

When, after hearing all the evidence, the judge is of the opinion that the parties should be divorced and the marriage should be ended, the judge will grant a preliminary order called a "Decree Nisi". The Decree Nisi will also contain any other relief granted by the judge (such as custody, access, or maintenance).

Three months after the Decree Nisi has been granted, the person who obtained the divorce must apply to court for a "Decree Absolute". Where the person who has obtained the divorce does not make this application, the other person may do so. In special circumstances, the three month waiting period may be shortened by the court.

The court will grant a Decree Absolute unless one of the spouses satisfies the court that the divorce should not be made final.

The parties are not actually divorced until a Decree Absolute is granted. Either person may remarry only after the Decree Absolute has been granted.

Other Relief Available From A Court Granting a Divorce

Where there has been an application for a divorce, either spouse may also request that the court deal with matters such as custody, access or maintenance. These matters will be dealt with in the Decree Nisi. Where the divorce proceedings are lengthy, these matters can be dealt with in an "interim order", which provides immediate, temporary relief (see page 4.

Order Of Custody In deciding who will have custody of children in divorce proceedings, the judge will look at evidence of the behaviour of the spouses, the financial circumstances of each, and the best interests of the children.

The judge may order that custody of the children be given to one spouse or to the other, or to both ("joint custody").

Order Of Access The judge may order that the parent who has not been granted custody of a child have the right to visit with the child ("access"). In deciding whether to grant such an order, the judge is interested in whether it is in the best interests of the child that visits take place.

Order Of Financial Support For Children The judge may also order that a parent pay maintenance for the "children of the marriage". A child of the marriage is a child:

- under 16 years of age *or*
- 16 years of age or over, who is unable, because of illness, disability or other reason (such as continuing his or her education), to support himself or herself.

Therefore, in divorce proceedings a parent can be ordered to pay maintenance for his or her child after the age of 16, and even after the age of 18.

In deciding how much maintenance should be paid, the judge will consider such things as the needs of the child and the financial circumstances of the parents.

Order Of Financial Support For A Spouse In deciding whether to order that one spouse pay maintenance to the other in divorce proceedings, the judge will look at the conduct of the spouse asking for maintenance, and the needs and financial circumstances of both spouses.

Orders Of Protection Where one spouse has acted violently towards his or her spouse or children, or there is fear of violence, the court may make and enforce an order to protect them. For other protection and help available to an abused spouse, see pages 16 to 17.

Effect Of A Divorce Court Order On Previous Court Orders

It is presently unclear whether any provision in a court order of separation ordering maintenance to be paid for a spouse will end when a decree of divorce is granted. Therefore, it is recommended that, if a spouse wishes maintenance payments to continue after the divorce, he or she request this maintenance in the divorce proceedings.

Appealing The Provisions In A Decree Nisi Of Divorce

If either party is unhappy with the decision of the court on any issue in the divorce proceedings, he or she may appeal that decision to a higher court. An appeal to the Manitoba Court of Appeal must be started within 15 days of the decision.

There is no appeal from the decision of the court to grant a Decree Absolute.

Changing The Provisions In a Divorce Court Order

Where a divorce court has dealt with matters such as custody, access or maintenance, an application may be made by either party to the court that granted the order to have these provisions reviewed and changed ("varied").

A judge will vary these provisions only if the circumstances of the parties have changed or if the judge considers it fair to do so in light of the conduct of one or both of the parties.

◆Marital Property

In Manitoba, The Marital Property Act sets out the rules for dividing marital property between spouses. In general, marital property is any property which either or both spouses have acquired while they are married and living together. The basic rule under this Act is that both spouses have the right to an *equal share* in the marital property when it is being divided between them, no matter which spouse owns the property.

The law recognizes that, whether a spouse is responsible for running the household or for earning the family income, the contribution to the marriage is of equal importance and should be given equal weight when dividing marital property between the spouses.

Persons To Whom The Marital Property Act Applies

The Marital Property Act applies to all *married* persons ("spouses") living in Manitoba, no matter where they were married or how long they have been married, *unless* they were living separate and apart before May 6, 1977. The Act also applies to spouses who were living separate and apart before May 6, 1977, if they have lived together for a period of more than 90 days after that date.

Spouses who do not want The Marital Property Act to apply to their property must enter into a written agreement clearly stating this. Such an agreement may be made before or during the marriage, or upon marriage breakdown, and must be very carefully drawn up. An agreement made by spouses before the Act was passed is still valid.

IT IS RECOMMENDED THAT EACH SPOUSE SEE HIS OR HER OWN LAWYER BEFORE SIGNING SUCH AN AGREEMENT.

If such an agreement has been entered into by one spouse because of fraud, unfair pressure or a mistake, that spouse may request a court to set this agreement aside.

Types of Marital Property

The Marital Property Act divides marital property into two categories: "family assets" and "commercial assets".

Family Assets Marital property located in Manitoba which is owned by one or both spouses and *used for family purposes*, such as shelter, transportation or recreation, is a family asset. Some examples of family assets are:

- the marital home
- household furniture and appliances
- the family car
- the summer cottage
- money in savings, chequing or current accounts (where this money is used for family purposes)
- rights under life or accident and sickness policies or annuity policies
- jewellery
- registered retirement savings plans

One of the most important family assets is the marital home. The marital home is any property which

is used as a family residence. It may be owned or rented by one or both spouses, and may include a house, apartment, trailer, or condominium.

Special protection with respect to the marital home is provided by The Dower Act of Manitoba. Where both spouses are registered as the owners of the marital home, *both* must agree in writing to any sale, mortgage, or other transaction involving the marital home. Where the marital home is owned by one spouse only, the written consent of the *other* spouse is required before there can be any sale, mortgage or other transaction involving the marital home by the owner-spouse. However, where the marital home is owned by one spouse only, and the spouses have been living separate and apart for at least six months, or the non-owning spouse has been declared by a court to be a mentally disordered person, a court may permit the sale, mortgage or transaction to take place without the consent of the non-owning spouse. In such a situation the court may also attach conditions to the sale, mortgage or transaction to protect the non-owning spouse.

The Family Maintenance Act of Manitoba also provides protection with respect to living in the marital home (see page 7).

Commercial Assets Marital property located in Manitoba, owned by one or both spouses, and which is not a family asset, is a commercial asset. Some examples of commercial assets are:

- an interest in a business such as a drug store, a construction company, a medical practice or a law practice,
- a life insurance policy or an accident and sickness insurance policy taken out solely to provide compensation for loss to a business undertaking due to death or illness of the insured person.

The Family Farm The special nature of a farm may make it both a family and a commercial asset.

The farm house, and that part of the farm land necessary for the use and enjoyment of the farm house, is the marital home, and is therefore a family asset. The remainder of the farm property may be a commercial asset.

Special protection is given to spouses on a farm in The Dower Act (see page 3).

Property Which Is Not Divided Under The Marital Property Act

Certain types of property will not be divided between spouses under The Marital Property Act.

Any property which a spouse acquired before the marriage will not be divided unless it was acquired to be used by both spouses during the marriage. However, any increase or decrease in the value of such property during the marriage will be considered in determining a fair division of other property between the spouses.

Property of a spouse located outside Manitoba will not be divided, but its value may be taken into account in determining a fair division of other property.

Any property dealt with in a written agreement between the spouses will not be divided unless the agreement has been set aside by a court.

Compensation received by one spouse for a personal injury or disability will not be divided unless it was to compensate for a loss suffered by both spouses.

A gift or inheritance received by one spouse from a third person will not be divided unless the giver intended to benefit both spouses. However, if the gift or inheritance is of an extraordinary value, this value will be taken into account in determining a fair division of commercial assets.

Property which is equally owned by the spouses ("jointly owned property") is not divided under the Marital Property Act as each spouse already owns one-half of this property in law. To enforce this right, an application may have to be made to court under The Law of Property Act of Manitoba. Often, the marital home is jointly owned by spouses.

Property which is acquired by one spouse after the spouses have separated will not be divided between them.

Rights Available to Spouses Under the Marital Property Act

Accounting & Equal Division of Marital Property Each spouse is entitled to an "accounting" and "division" of the marital property and may apply to court to enforce this right, if necessary.

Where a Decree Absolute of Divorce has been granted by a court and the question of the division of marital property has not been dealt with, either ex-spouse may apply to court for an accounting and division. However, this application must be made no later than 60 days after the last day for appealing the divorce order has expired.

An accounting involves the preparation by each spouse of a complete list of his or her assets and their value, and of his or her debts. If a spouse will not provide such a list voluntarily, the court may order that this be done.

If the spouses cannot agree how to divide the marital property between them, an application may be made by either spouse requesting the court to divide the property.

The court will divide both family and commercial assets between the spouses. Usually these assets will be divided equally. However, a judge may divide family assets unequally if the judge is satisfied that an equal division would be *extremely unfair* because of extraordinary circumstances. A judge has slightly more discretion to divide commercial assets unequally, but the judge must be satisfied that it would be clearly unfair to divide them equally.

When deciding whether or not to make an unequal division of family or commercial assets, the judge cannot consider the conduct or actions

of the spouses unless that conduct amounts to "dissipation". Dissipation is conduct which seriously threatens the financial security of the family. For example, if one spouse has given an excessive gift to a third person, the value of this gift will be taken into account by the court to reduce that spouse's share in the marital property. However, this can only be done if the other spouse has applied to court for a division of marital property within two years of discovering that this gift was made.

An unequal division of family or commercial assets is very rare.

When a court divides marital property, it actually divides the value of the property between the spouses. For example, if one spouse wishes to keep a particular asset, the court may order that the other spouse is entitled to an asset or assets of an equal value, or to payment, by lump sum or by instalments, of an amount equal to one half of the value of that asset.

Orders For The Preservation Of Property A spouse who has applied for a division of marital property may also apply to court for an order preventing the other spouse from destroying, irresponsibly selling or giving away, or removing property from Manitoba before the court has decided how the marital property is to be divided.

◆Sharing Of Pension Benefits Between Spouses

The Canada Pension Plan

The Canada Pension Plan is a federal government plan and applies to most kinds of employment in Canada. Usually, pension *benefits* under the Canada Pension Plan are paid to a person on retirement if he or she has been a member of the workforce. The amount received will depend upon the length of time the person has worked and the amount contributed by that person to the Plan.

However, pension *credits* earned under the Plan by either spouse during the years of the marriage may be divided equally between the spouses upon divorce or legal annulment of the marriage. In this way, a spouse who has worked in the home throughout the marriage, and who therefore could not contribute to the Plan, will receive some pension benefits upon the retirement of the other spouse.

The division of pension credits is not automatic. An application must be made to the nearest Federal Income Security Programs Office. In Winnipeg, the telephone number is 949-3640.

Before an application can be made, two conditions must be met:

(i) the spouses must have lived together for at least thirty-six consecutive months during the marriage, and
(ii) the application for division of Canada Pension Plan credits must be made *within three years* of the date of the divorce or legal annulment.

The Pension Benefits Act Of Manitoba

The Pension Benefits Act of Manitoba applies to pension plans sponsored by an employer for employees in Manitoba. It does not apply to the Canada Pension Plan, to employees of the federal government or to personal pension plans (such as a Registered Retirement Savings Plan).

If spouses were separated or divorced on or after January 1, 1984, pension benefit *credits* earned during the marriage by either spouse as a member of a pension plan registered under the Act may be divided equally between the spouses.

This equal division of pension benefit credits between spouses will take place:

(i) where a court has ordered a division of family assets under The Marital Property Act, or
(ii) where the spouses have made an agreement to divide family assets between them.

The portion of the pension benefit credits to which a spouse becomes entitled under this Act are not transferred directly to that spouse. Instead, he or she is entitled to transfer these credits to his or her own pension or retirement benefit plan, or to a locked-in registered retirement savings plan.

For further information with respect to obtaining a division of pension benefit credits under The Pension Benefits Act, contact:

The Pension Commission
1004-401 York Avenue
Winnipeg, Manitoba
R3C 0V8
(Telephone: 945-2740)

The Marital Property Act

Under this Act, rights under a pension plan which is not part of the Canada Pension Plan and to which The Pension Benefits Act does not apply are a family asset and will be divided between the spouses. For more details about the division of family assets, see pages 11 to 12.

◆Rights and Duties of a Common-Law "Spouse"

Where a man and a woman are not legally married, but are living together in a relationship of some permanence, certain rights and duties may arise. Such a relationship is often called a common-law relationship.

Usually, a common-law "spouse" will have only those rights and duties specifically given to him or her by legislation or contract. For example, The Pension Benefits Act of Manitoba gives a common-law "spouse" the same rights as a married person if:

- the common-law "spouses" are not prevented by law from marrying each other and have lived together openly for at least one year, or
- the common-law "spouses" are prevented by law from marrying and have lived together openly for at least three years.

In addition, for the provisions of this Act to apply to a common-law "spouse", the "spouse" who is the member of the pension plan *must* file a written declaration stating that he or she is living in a common-law relationship with the other "spouse". This written declaration is filed with the administrator of the pension plan.

The Family Maintenance Act of Manitoba places a duty on a common-law "spouse" to financially support the children or his or her "spouse" while the children are in their care. However, this duty arises only to the extent that the parents do not, or are unable to, support the children.

In the eyes of the law, a common-law relationship is *not* the same as a marriage. Therefore, there are many rights that a married spouse has which a common-law "spouse" will never have, no matter how long the common-law relationship has lasted. For example, as The Marital Property Act does not apply to common-law relationships, a common-law "spouse" does not have a right to a division of property under this Act. Also, the protection provided in The Dower Act, discussed at page 3 of this booklet does not apply to a common-law "spouse".

◆Rights Of A Common-Law "Spouse" Upon Breakdown Of The Relationship

The following are some of the rights of a common-law "spouse" upon breakdown of the relationship.

Order Of Financial Support For A Common-Law "Spouse"

A common-law "spouse" may apply to court for an order for payment of maintenance for his or her support under The Family Maintenance Act in two situations:

(i) where the common-law "spouses" have lived together for one year or more *and* they have had a child, or

(ii) where the common-law "spouses" have lived together for an uninterrupted period of five years or more *and* the "spouse" applying for maintenance has been dependent on the other "spouse". However, if the "spouses" have agreed in writing to an amount of maintenance or have agreed not to claim maintenance from each other, an application for maintenance cannot be made.

The application must be made to court no later than one year after the common-law relationship has ended.

Once the above conditions are met, the court will apply the same tests it applies to married spouses in determining the proper amount of maintenance (see page 7).

Similarly, if the above conditions are met and the other "spouse" lives outside Manitoba, a dependent "spouse" may apply in Manitoba for a provisional order of maintenance. The procedures set out at pages 7 to 8 will then apply.

Orders Of Protection

If a common-law "spouse" has lived with the other "spouse" for one year or longer, he or she may apply to court under The Family Maintenance Act for an order

- preventing the other "spouse" from entering the residence or place of employment of the "spouse";
- preventing the other "spouse" from annoying, molesting or harassing him or her or any children in his or her care.

In addition, if at any time the safety of a common-law "spouse", or his or her children is threatened, the police should be contacted immediately for assistance. For other protection and help available to an abused common-law "spouse", see the section on Violence in the Family, at pages 16 to 17.

Rights Of A Common-Law "Spouse" To Property

Where any two people jointly own and hold legal title to a piece of property or an asset, they are joint owners and are entitled to share the property equally. Therefore, if property or an asset is jointly owned by common-law "spouses", the property or asset will be divided equally between them upon a breakdown of their relationship.

As stated previously, The Marital Property Act does not apply to common-law relationships and there is no presumption that a common-law "spouse" is entitled to a division of any assets owned solely by the other "spouse".

However, a common-law "spouse" may have some limited rights with respect to property owned by the other "spouse" alone, if, upon an application to court, the "spouse" can prove that he or she contributed to acquiring or improving that particular property and that the contribution was sufficiently substantial and direct to entitle him or her to a share of the property.

A common-law "spouse" may apply to court under The Family Maintenance Act for an order allowing that "spouse" to live in the family home to the exclusion of the other "spouse", even where the other "spouse" owns the home. Such an application can only be made where the common-law "spouses" have lived together for one year or more *and* they have had a child. The application must be made no later than one year after the common-law relationship has ended.

The Sharing Of Pension Benefits Between Common-Law "Spouses"

The Canada Pension Plan A common-law "spouse" is *not* entitled to any division of pension plan credits accumulated by the other "spouse" under the Canada Pension Plan upon a breakdown of the relationship.

The Pension Benefits Act of Manitoba As discussed at page 13, the Pension Benefits Act gives a common-law "spouse" the same rights to a division of pension benefit credits as married people if certain conditions are met.

Only pension benefit credits earned during the period the common-law relationship is considered to be in effect will be divided between the "spouses". The "spouses" will be treated as if they are still living together until the "spouse" who is the member of the pension plan files a written statement with the administrator of the pension plan stating that the relationship has ended.

The Marital Property Act As stated previously, this Act does not apply to common-law relationships. Therefore, rights under pension plans cannot be divided between common-law "spouses" under this Act.

◆Unmarried Parents And Their Children

It is important to note that the comments in this section apply to *any child born outside marriage* and to his or her parents, whether or not the parents were living together in a common-law relationship.

Since October 1, 1983, children born within marriage and children born outside marriage have equal legal status and rights. In determining matters such as the right of a child to maintenance or to inherit from a parent or relative, it no longer matters if the child's parents were married or not married.

Determining The Parentage Of A Child

It may be difficult to prove that a particular man is the father of a child where the parents of the child are not married. For this reason, The Family Maintenance Act was changed on October 1, 1983, to set out certain circumstances in which it is reasonable to *presume* that a man is the father of a child. The circumstances which give rise to such a presumption are:

- he was married to the child's mother when the child was born; or
- he was married to the child's

mother and the marriage ended within 300 days before the child was born; or

- *he was married to the child's* mother after the birth of the child and acknowledged that he is the child's father; or
- he and the child's mother have acknowledged in writing that he is the child's father; or
- he and the child's mother were living together in a common-law relationship of some permanence at the time of the child's birth; or
- the child was born within 300 days after he and the child's mother stopped living together in a common-law relationship of some permanence; or
- he has been found by a court to be the father of the child.

If an application is made to court in any of the above circumstances, the court will make an order declaring the man to be the child's father *unless he can prove that he is not*. If any of these circumstances apply, an application for a declaration of parentage can be made where either the father or the child is alive. For example, in these circumstances an application for an order declaring a man to be the father of a child can be made after the man's death.

If none of the circumstances listed above apply, it is still possible to obtain a court order declaring a man to be the father of a particular child. However, in this situation an order will not be made unless both the man and the child are living. Also, it is necessary for the person making the application to prove to the court that the man is the child's father.

On October 1, 1983, The Family Maintenance Act was changed to allow an unmarried father to apply to court for a declaration that he is the father of his child. If he does not fall within one of the circumstances which lead to a presumption that he is the father, he will have to provide evidence to the court that he is the father of the child.

Blood tests may be of assistance in proving the parentage of a child.

Once it is determined that a man *is the father of a child*, he has the right to apply for custody of or access to his child and has the obligation to pay maintenance for his child.

Unmarried Parents And Custody

Before October 1, 1983, when a child was born to parents who were not married to each other, the mother had care and custody of the child unless a court ordered otherwise.

On October 1, 1983, The Family Maintenance Act was changed to give unmarried fathers more rights with respect to custody. Now, where the unmarried parents have lived together after the birth of their child, both have equal rights to custody and control of the child unless there is a court order giving custody of the child to one parent. If the unmarried parents have never lived together after the birth of their child, the parent with whom the child lives has sole custody and control of the child, unless a court orders otherwise.

Both unmarried parents have the right to apply to court for custody of their child. In deciding which parent should be granted custody of a child, a judge is concerned only with what is in the best interests of the child.

Unmarried parents applying to court for custody will be treated in the same way as married parents. An unmarried parent without custody has the same rights to information about his or her child, such as school or medical reports, as a married parent (see page 6).

Unmarried Parents And Access

The parent who has not been granted custody of his or her child may apply to court for an order granting the right to visit with the child ("access"). In deciding whether to grant an order of access, a judge is interested only in whether it is in the best interests of the child that these visits take place.

If the parents cannot agree when and where these visits are to take place, the judge will specify these matters in the order.

Unmarried Parents And Financial Support For Their Children

Both parents of a child have an equal responsibility to support and maintain their child, whether or not a court order of maintenance exists.

The parent who has custody of a child may apply to court for an order that the other parent pay maintenance for the support of the child. Such an order can be made against either the mother or father of the child. However, the unmarried father of a child can be ordered to pay maintenance only if he admits he is the child's father or if there is an order declaring that he is the child's father.

In deciding how much maintenance should be paid by a parent, the judge will consider such things as the cost of housing and living expenses for the child, the need for and cost of providing a stable home for the child, and the financial circumstances of each parent.

Where a parent lives outside Manitoba, it is possible to get a provisional order of maintenance from a court in Manitoba for the support of a child living in Manitoba. The procedure involved is described at pages 7 to 8.

Usually, the responsibility of a parent to support his or her child ends when the child reaches 18 years of age. However, if an application is made to court and a judge is satisfied that a child cannot support himself or herself because of illness, disability, or some other cause (such as continuing his or her education), the judge may order that the parent continue to support the child beyond the age of 18.

SHELTER

Where a spouse, including a common-law "spouse", or a child is being abused, there are two branches of law which offer assistance and protection—the criminal law system and the civil law system. These two systems provide different remedies. It may be necessary to use both systems for the fullest protection available.

The criminal law system is used to punish a person who has committed a crime or an offence. Usually, charges are laid by the police and a Crown Attorney will prosecute the charges in court.

The civil law system is used to settle disputes between individuals and can also provide protection for an individual. The person who wants the assistance and protection of the civil law system must apply to court and must hire his or her own lawyer if he or she wishes to be represented.

◆ Spousal Abuse

Spousal abuse, which includes abuse of a common-law "spouse", may involve physical or mental abuse. Examples of physical abuse by a spouse are actions such as hitting, beating, throwing objects at or sexually assaulting the other spouse. Acts of mental abuse would include threatening and verbally abusing the other spouse. Every person has the right not to be abused, either physically or mentally, and the law will protect this right. However, the victim must seek this help.

Protection Provided By the Criminal Law System

If a spouse or common-law "spouse" is being threatened with violence or is being attacked, he or she should try to get away from the situation. The police should be called immediately. In Winnipeg and Brandon the telephone number is 911. In other areas, call the local R.C.M.P. number or dial 0 and ask to be connected with Zenith 50000, as this number will reach the local R.C.M.P.

Spousal abuse is a serious crime and the Attorney-General of Manitoba has requested the police officers in the province to lay criminal charges in every case where a person has been assaulted by his or her spouse. This includes a situation where a spouse has sexually assaulted his or her spouse. Charges can be laid even if there are no

witnesses to the abuse, other than the victim.

The police may assist the abused spouse to leave the home and to get medical attention, if necessary. If an abused spouse needs a place to stay, there may be a shelter available in his or her community. For a list of available shelters and community resources for abused spouses, see Appendix C at page 36. For further information about shelters call the Crisis Line of the Manitoba Committee on Wife Abuse. In Winnipeg, the telephone number is 942-3052; in other areas, the toll-free number is 1-800-362-3344.

Once charges have been laid against an abusing spouse, the matter will proceed to criminal court. If the abusing spouse pleads not guilty to the charges, the victim will be required to be a witness for the Crown. The victim does not have the right to stop the proceedings once charges have been laid because this is a criminal prosecution by the Crown.

If the abusing spouse is convicted, the punishment given by the judge will vary depending on matters such as the seriousness of the crime and the previous criminal record of the abusing spouse. For example, the judge may imprison the abusing spouse or the abusing spouse may be required, as part of his or her sentence, to keep away from the victim or to attend counselling.

Protection Provided By the Civil Law System

If a spouse or common-law "spouse" is being physically or mentally abused, or fears that he or she will be abused, he or she may apply to court for an order of protection. For example, if one spouse is phoning the home or place of employment of the other spouse and is verbally abusing him or her, it is possible to get a court order prohibiting this behaviour.

An order of protection may prohibit the abusing spouse from molesting, annoying or harassing the other spouse or from entering the residence or place of employment of the other spouse. A judge may also order that the victim have the right to live in the marital home, even if it is owned by the abusing spouse.

Usually a person applying for a court order must give notice of the application to the other party so that the other party will have the opportunity to come to court, with or without a lawyer, to oppose the granting of the order. However, because it is urgent that an abused spouse be given immediate protection by the law, an application for a *temporary* order of protection can be made quickly and *without notice* to the abusing spouse. This is called an "ex parte" order and it will remain in effect until a judge can hear from both parties and make a final order.

If an order of protection is not obeyed, the person disobeying the order can be brought before a judge and may be fined or imprisoned.

For more information and support, an abused spouse or common-law "spouse" may call the Crisis Line of the Manitoba Committee on Wife Abuse. The telephone number in Winnipeg is 942-3052, and in other areas of Manitoba the toll-free number is 1-800-362-3344.

◆Child Abuse and Neglect

Child abuse and child neglect are serious offences. Child abuse can be physical or emotional abuse. Any injury inflicted on a child or a sexual assault upon a child by a parent or other person is physical abuse. Emotional abuse is difficult to define, but it includes actions which cause problems such as delayed growth, and delayed speech and intellectual development.

Charges may be laid against a parent or any person abusing or neglecting a child. If convicted, that parent or person may be imprisoned.

In addition to criminal charges, steps will be taken by a child caring agency to protect a child from abuse or neglect. This will often mean that the child is removed from the family. For further information about these procedures, see the section on Removal of Children from the Care of Their Parents, at pages 22 to 23.

Every person who has reason to suspect that a child is being abused or neglected by anyone, is *required by law* to report this situation to the Director of Child Welfare or to a child caring agency. For example, people such as teachers, doctors, baby-sitters, neighbours and relatives are all required to report child abuse or neglect. However, this duty is not limited to these people, but applies to everyone.

The telephone number for the Director of Child Welfare is 945-6948. A list of the child caring agencies in Manitoba is in Appendix D at pages 37 to 38.

If the safety of a person's children is threatened by that person's spouse or common-law "spouse", he or she should contact the police immediately. In addition, he or she should contact a lawyer for assistance in obtaining a court order of protection.

◆Enforcement of Orders of Financial Support

The Maintenance Enforcement Program of Manitoba

In Manitoba, orders for payment of maintenance for children, spouses or common-law "spouses" may be enforced through the Maintenance Enforcement Program, which is operated by the Department of the Attorney-General. This Program provides automatic enforcement, computerized monitoring of payments and free legal representation in court for a person seeking to enforce a maintenance order. These three aspects make the Manitoba Maintenance Enforcement Program the most progressive and innovative program in Canada, and it is being considered as a model by the other provinces.

Types of Orders Enforced Through The Program All orders for the payment of maintenance made by a Manitoba court, with the exception of maintenance orders made in divorce proceedings, are *automatically* enforced by an enforcement officer (a "designated officer") with the Program.

If the person entitled to maintenance under such an order does not wish it to be enforced through the Program, he or she must complete and sign an "opt out" form and give this to the designated officer. However, if the person entitled to maintenance is receiving social assistance, he or she does not have the right to "opt out" of the Program. Where a person entitled to maintenance has "opted out" of the Program, he or she may re-enroll the maintenance order at any time by filing a completed and signed form and a sworn statement indicating the amount of maintenance owing under the order ("the arrears of maintenance") with the designated officer.

A Manitoba order for the payment of maintenance made in divorce proceedings can only be enforced through the Program if the order contains a specific provision permitting this. If the order does not contain such a provision, an application may be made to the court that granted the order to add this provision.

Any order for payment of maintenance made by a court in a "reciprocating state", including an order made in divorce proceedings, which has been registered in Manitoba under The Reciprocal Enforcement Act may be enforced through the Program. A list of these reciprocating states is found in Appendix B at page 35.

Monitoring Of Orders When an order for payment of maintenance is being enforced through the Program, the person required to pay maintenance must make any cheque or money order payable to the person or agency entitled to receive the payments and must send the payments to the designated officer of the Program for recording. The record of payments will be fed into the Program's computer. The computer regularly checks all payments made and required to be made under a maintenance order and automatically draws any failure to make a payment (a "default in payment") to the attention of the designated officer.

Enforcement Of Orders Where there is a failure to make a payment under an order of maintenance, the designated officer will *automatically* take steps against the defaulter to enforce payment on behalf of the person entitled to receive the maintenance. The person entitled to receive the payments is not required to do anything to enforce the order, but should provide any information he or she has about where the defaulter is living, where the defaulter works and where the defaulter banks to the designated officer.

The most common steps taken by the designated officer to enforce payment of maintenance are:

- garnishment of the wages of the defaulter (this means that the defaulter's wages are seized directly from the employer);
- garnishment of the money in any bank accounts of the defaulter;
- garnishment of any benefits received by the defaulter under a pension scheme or plan, superannuation scheme or plan, a life or fixed term annuity policy or an accident, sickness or disability insurance policy;
- requiring the defaulter to appear before a court officer to provide information with respect to his or her financial situation;
- requiring the defaulter to appear before a judge or master of the court for a "show cause" hearing.

Where a defaulter is required to appear for a "show cause" hearing, the defaulter must satisfy the court that he or she should not be required to pay the arrears of maintenance owing under the order. The person entitled to receive maintenance does not have to attend this hearing and the Department of the Attorney-General will provide a lawyer for this person (or the person may hire his or her own lawyer). The court may order payment of the arrears owing in full, or on a periodic basis. Such payments are *in addition* to the regular payments required to be made under the order. Also, the court may order that, upon failure to make any of the payments towards these arrears, the defaulter will be imprisoned.

It is important to note that imprisonment does *not* cancel the arrears of maintenance owing. To cancel the arrears of maintenance, the defaulter must make an application to court and must prove that he or she is not able to pay these arrears.

For further information about the Maintenance Enforcement Program, in Winnipeg, contact:

The Maintenance Enforcement Program
9th Floor - 405 Broadway Ave.
Winnipeg, Manitoba
R3C 3L6
(Telephone: 945-7133)

For areas outside Winnipeg, call the local Office of the Provincial Court or, where there is no such office, the local Office of the Court of Queen's Bench. For a complete list of Court Offices, see Appendix A at pages 33 to 34.

Enforcement Of Orders Not Enrolled In The Maintenance Enforcement Program.

If a person is entitled to receive payments of maintenance under an order and does not want the order enforced through the Maintenance Enforcement Program, he or she should consult a lawyer to see what steps should be taken to enforce the order.

Enforcement of Orders Against Persons Living Outside Manitoba

Where there is a failure to make payments under an order of maintenance and the person required to make these payments resides in a "reciprocating state", the person entitled to maintenance should contact the Family Conciliation Service on the 9th Floor, 405 Broadway Avenue (Telephone: 945-7236) for assistance if he or she lives in Winnipeg. If he or she lives outside Winnipeg, the local Office of the Provincial Court or, if there is no such office, the local Office of the Court of Queen's Bench should be contacted. This assistance is provided at no cost.

A list of reciprocating states is found in Appendix B at page 35.

◆Child Abduction And Enforcement Of Custody And Access Rights

Where No Court Of Custody Exists

The Crime Of Child Abduction Where there is no court order, parents who have lived together after the birth of their child have equal rights with respect to the custody and control of that child.

Upon separation of the parents, if there is no court order of custody and one parent takes a child who is under 14 years of age away from the other parent without that other parent's consent, he or she *may* be charged with the crime of abduction (kidnapping) under the Criminal Code of Canada. Before a criminal charge of abduction will be laid in these circumstances, the Attorney-General of Manitoba must consent.

There are two situations where a charge of abduction will probably be laid where there is no court order of custody. The first situation is where the parents and child have been living together and suddenly one parent takes the child away from Manitoba without the consent of the other parent, intending to deprive that parent of his or her rights as a parent. The second most common situation is where separated parents have agreed in the past that a child is to live with one of them. Unless that parent consents, the other parent cannot later decide to take the child away without a court order.

A parent charged with the crime of abduction may have a defence to that charge if he or she removed the child to protect the child from danger.

If a criminal charge of abduction is laid, a Canada-wide warrant may be issued for the arrest of the abducting parent. If convicted of the charge, the abducting parent may be imprisoned for up to 10 years.

If a child has been taken away by one parent without the consent of the other parent, the police and a lawyer should be contacted *immediately*.

Enforcement by the Civil Courts Where there is no court order of custody, there are no civil (non-criminal) court procedures available to help a parent. It is therefore very important for a parent who is actually taking care of a child to apply to court for an order of custody.

Where a Court Order of Custody Exists

The Crime of Child Abduction Where one parent has been given custody of a child by a court order, if the other parent takes the child away without the consent of the parent with custody and the child is under the age of 14, that parent *may* be charged with the crime of abduction under the Criminal Code of Canada.

A Canada-wide warrant may be issued for the arrest of the abducting parent, if a criminal charge of abduction is laid. The abducting parent may be imprisoned for up to 10 years if convicted of the offence.

A parent charged with the crime of abducting his or her child may have a defence to this charge if he or she acted to protect the child from danger.

If a child has been taken away from a parent with a court order of custody without his or her consent, the police and a lawyer should be contacted *immediately*.

Enforcement Of A Custody Order by the Civil Courts There are also civil (non-criminal) laws to help a parent who has a court order of custody and whose child has been abducted. These laws apply no matter how old the child is. Due to the serious and complicated nature of such matters, a lawyer in Manitoba should be contacted *immediately*.

If the child is still in Manitoba, the parent entitled to custody may apply to a Manitoba court for an enforcement order under The Child Custody Enforcement Act of Manitoba or, where the custody order was made in divorce proceedings, under the Divorce Act of Canada. If an enforcement order is granted, it may provide that the police assist the parent in getting his or her child back from the abducting parent.

In addition, where one parent takes a child away from a parent

given custody in a court order, "contempt proceedings" may be started to bring the abducting parent before the court that made the custody order. Contempt proceedings may be brought anytime a person disobeys a court order. The court may impose a fine or jail sentence, or both, if it is satisfied that its order has been disobeyed.

If a Manitoba child has been abducted by a parent and taken to another province, there are certain court procedures which must be taken in that province to enforce the custody order and to have the child returned. Usually, the parent entitled to custody must hire his or her own lawyer to enforce the order in that province. The court may refuse to enforce the order if it is satisfied that the child would suffer serious harm or that the child does not have a real connection with Manitoba due to the length of time he or she has been living elsewhere.

The province of New Brunswick may provide Crown counsel to act on behalf of a parent entitled to custody where a child has been abducted to New Brunswick. The Department of the Attorney-General in Manitoba may also provide the same service for a parent living in another province whose child has been abducted into Manitoba. Manitoba is urging the other provinces to provide a similar service for parents of children abducted into their jurisdiction.

Where A Court Order Of Access Exists

Where a parent has been given the right of access to his or her children in a court order and has been denied this right by the other parent, and the children are in Manitoba, he or she may apply to court for an enforcement order under The Child Custody Enforcement Act of Manitoba or, if the order was made in divorce proceedings, under the Divorce Act of Canada. If an enforcement order is granted, it may provide that the police assist the parent in exercising his or her rights of access.

A parent disobeying a court order of access is "in contempt" of that order and may be brought before the court that made the order in contempt proceedings. The court may impose a fine, a jail sentence or both, where the court finds that its order has been disobeyed.

Where an order of access has been granted under The Family Maintenance Act of Manitoba, the parent entitled to access may also request that the police lay a charge under that Act against the other parent for failing to comply with the court order. If convicted of such a charge, the parent may be imprisoned for up to 30 days, fined up to $500, or both imprisoned and fined.

If a parent has been given the right of access in a court order and the child is taken out of Manitoba, it may still be possible for that parent to enforce his or her right of access. In such a situation, a lawyer in Manitoba should be contacted immediately.

◆Enforcement Of Orders Of Protection

Orders Of Protection Made Under The Family Maintenance Act

A spouse or a common-law "spouse" may apply under The Family Maintenance Act at any time for a court order preventing the other spouse from:

- molesting, annoying or harassing the spouse or any child in the custody of that spouse; or
- entering the residence or place of employment of the spouse; or
- occupying the marital home.

If this type of order is not obeyed, the police should be contacted for assistance. It may also be wise to see a lawyer in these circumstances.

Failure to obey such an order is an offence. If a person is charged with and convicted of such an offence, he or she can be imprisoned for a period of up to 30 days, fined up to $500, or both imprisoned and fined.

If for any reason a charge is not or cannot be laid in such a situation, it may be possible to bring the person disobeying the order before the court that made it in contempt proceedings. If the court finds that the order has been disobeyed, it may impose a fine, a jail sentence or both.

Orders Of Protection Made By A Court Granting a Divorce

Where a court granting a divorce has also made an order of protection which is not being obeyed, the person disobeying the order is "in contempt" of the order and may be brought before the court in contempt proceedings. The court may impose a fine, a jail sentence, or both, if it is satisfied that the order has not been obeyed.

If this type of protective order is not obeyed, a lawyer should be contacted immediately.

REMOVAL OF CHILDREN FROM THE CARE OF THEIR PARENTS

◆Voluntary Surrender Of Guardianship Of A Child

A parent may agree to permanently give up all rights and responsibilities with respect to the care and custody of his or her child by signing a written agreement with the Director of Child Welfare or a child caring agency. Such an agreement is called a "Voluntary Surrender of Guardianship Agreement". Once it is signed, the Director or child caring agency becomes the legal guardian of the child and takes the place of the child's parents.

After such an agreement is signed, the Director or the agency is entitled to place the child for adoption.

The parent can withdraw from such an agreement only if written notice is given to the Director or the agency before the child is placed for adoption, or within one year from the date of the agreement, whichever happens first.

Where the parents of a child are married, both must sign a Voluntary Surrender of Guardianship Agreement.

Before October 1, 1983, where the parents of a child were not married, the mother could sign a Voluntary Surrender of Guardianship Agreement by herself. The unmarried father had no right to object. On October 1, 1983, The Child Welfare Act was changed to provide some protection for the unmarried father. Now, if the child's mother has given up all rights to her child to the Director or an agency, the child cannot be placed for adoption if the father has applied to court to be declared the father of the child.

A decision to enter into a Voluntary Surrender of Guardianship Agreement is very serious and should be made only after professional help has been sought. Such help is available from the child caring agencies listed in Appendix D at pages 37 to 38. It is also wise to speak with a lawyer about such an important decision. For information about seeking legal advice, see page 31.

◆Agreement To Place A Child In Care Temporarily

Where a parent is unable to care for his or her child, it is possible to enter into a written agreement with a child caring agency to have the child placed in care for a specific period of time. Such an agreement called a "Temporary Contract Placement" and can last up to 12 months. The agreement can be renewed for a further period of up to 12 months.

The agreement may be cancelled in writing at any time by the parents or the child caring agency.

◆Protection Of Children

Child neglect and child abuse are both serious offences, and can lead to charges being laid against the person abusing neglecting the child. For more information about these offences, see pages 16 to 17.

In addition, there are provisions in The Child Welfare Act which allow child caring agencies to protect children from their own families. If there is reason to believe that a child is neglected or abused, or the child's parents are unable or unwilling to care for the child properly, a child caring agency has the right to enter the family home, to investigate and take any steps necessary to protect the child.

In some circumstances the agency may leave the child in the family home, as the child is not in danger and counselling and supervision by the agency is all that is needed. The parents and the agency can arrange for this supervision informally, or the agency can make an application to court for an *Order of Supervision*. This order gives the agency the right to enter the family home to ensure that the child is being properly cared for.

When a child caring agency believes that it is necessary to remove the child from the family home to protect the child, the agency can do this without the agreement of the parents. This removal of the child is called an "apprehension", and can be done without a warrant or a court order. Once the child has been apprehended and the agency has decided that the child should not be returned to the family home, the agency must apply to court within 4 days after the apprehension for a hearing date to be set. At the same time, the agency must advise the court what arrangements have been made for the parents to visit with the child until the hearing takes place. If the parents disagree with these arrangements, they may apply to have the court decide what visiting arrangements are appropriate.

At the hearing, a judge must decide whether the child is "in need of protection" from his or her parents and what kind of order should be made to protect the child. The parents have the right to be represented by a lawyer, to give evidence themselves, and to call witnesses to give evidence on their behalf. Because these proceedings are very serious, the parents should seek the help of a lawyer.

After having heard all the evidence, the judge may do one of four things:

(i) order that the child be returned home, if the parents can care properly for the child;
(ii) make an Order of Supervision;
(iii) make a Temporary Order of Guardianship; or
(iv) make a Permanent Order of Guardianship.

Where a judge makes an *Order of Supervision*, the child will be returned home, but the child caring agency is entitled to enter the home to supervise the care of the child.

A *Temporary Order of Guardianship* will be made where a judge has decided that the parents are temporarily unable to care for the child properly. Under such an order, the agency becomes the guardian of the child for a specific period of time and the child will be in the care and custody of the agency during the period of the order. Unless the order states otherwise, the parents have the right to reasonable visits with their child. If the agency and the parents cannot agree on the visits, an application can be made to court and the court will decide what visiting arrangements are appropriate. During the period of the Temporary Order of Guardianship, the agency and the family are expected to work together to resolve any problems in the home so that the child may return home once the order ends. If the problem in the home can be resolved *before* the Temporary Order of Guardianship is due to end, either the parents or the agency may apply to court to terminate the order and have the child returned home.

However, if after working with the family the agency is of the opinion that the child should not be returned home, the agency will apply to the court for a further order which will either extend the Temporary Order for another specific period or make the agency the permanent guardian of the child.

Where a judge makes a *Permanent Order of Guardianship*, the agency becomes the permanent guardian of the child, taking the place of the child's parents. The rights and responsibilities of the parents with respect to the child are ended permanently. The parents have no right to visit the child and it is entirely up to the agency whether or not to allow any visits. However, the parents may make an application to court for an order that they be allowed to visit the child. The court will decide what arrangements, if any, should be made for visiting. Where a Permanent Order of Guardianship is made, the agency can place the child for adoption.

Although the rights and responsibilities of the parents are ended when a judge makes a Permanent Order of Guardianship, it is possible for the agency or the Director of Child Welfare to apply to court for an order ending the Permanent Order of Guardianship and appointing either the parents or some other person to be the guardian of the child.

Either the parents or the agency may appeal any of the above orders to the Manitoba Court of Appeal within 21 days of the signing of the order.

RIGHTS AND DUTIES OF PERSONS WHO ARE NOT PARENTS WITH RESPECT TO CHILDREN

◆Guardianship

Any person who is not a parent of a child may apply to court to be appointed the legal guardian of the child. For example, a person such as a grandparent may apply to be appointed the legal guardian of a grandchild. The court will appoint a person to be the child's guardian only if it is in the *best interests of the child.*

Once a person has been appointed the legal guardian of a child, he or she, and not the parents of the child, is responsible for the care and control of the child. The guardian will have the duty to provide financial support ("maintenance") for the child. However, a guardian may apply to court for an order that the parent or parents of the child pay maintenance for the support of the child, if the parents are able to do so.

If a legal guardian neglects or abuses a child in his or her care, a child caring agency may take whatever steps are necessary to protect the child. These steps are discussed at pages 22 to 23. Where such steps are taken, the guardian has the same rights that the parents of a child would have.

◆Orders of Access for a Person Who Is Not a Parent

On October 1, 1983, The Child Welfare Act was changed to provide that, in *exceptional circumstances,* a court may make an order granting any person who has had, or who ought to have, the opportunity to visit a child, the right to visit that child at such times and on such conditions as the court considers appropriate. For example, if a parent with custody of a child refuses to allow the grandparents to visit the child, the grandparents can now apply to court to have a judge decide whether they should be able to visit their grandchild. Once again, the court will make such an order only if it is in the *best interests of the child.*

◆Duties of a Person Standing in the Place of a Parent

A person who is not the parent or legal guardian of a child, but who stands in the place of the child's parent or parents, has the duty to provide financial support ("maintenance") for the child. This duty usually ends when the child turns 18 years of age. However, since October 1, 1983, if an application is made to court and a judge is satisfied that the child cannot support himself or herself because of illness, disability or some other reason (such as the cost of continuing his or her education), the judge may order that this person continue to support the child after the age of 18.

This duty only arises to the extent that the parents do not, or are unable to, support the child.

ADOPTION

An Order of Adoption made by a court under The Child Welfare Act terminates the relationship between a child and his or her natural parents. This means that all rights and responsibilities existing between a child and his or her natural parents end when the child has been adopted.

The relationship between an adopted child and the adopting parent or parents is the same as if the child had been born to the adopting parents. An adopted child will have the same last name as his or her adopting parents, unless the adopting parents request otherwise.

◆Types Of Adoption

There are presently five types of adoption in Manitoba.

A husband and wife may apply together to a child caring agency to have a child placed in their home for adoption. An unmarried adult may make such an application alone. Once a child has been placed in the home, the adopting parents or parent must apply to court for an Order of Adoption. The application to court cannot be made until the child has lived in the home for at least 6 months.

A person who marries a parent of a child may, together with that parent, apply to court to adopt the child if the child is living with and being cared for by them. Notice of this application must be given to the other parent, who will then have the opportunity to oppose the application in court. If an Order of Adoption is granted, the other parent may apply to court for an order granting him or her the right to visit the child.

Any person may apply to court to adopt a child that he or she has cared for and maintained for at least 3 years without interruption. A husband and wife may apply together to adopt a child where one of them has cared for and maintained the child without interruption for at least 3 years. Notice of such applications must be given to the natural parents of the child *and* to the child caring agency in the area where the applicants live.

A child may be privately placed with a person for adoption by someone other than a child caring agency if the Director of Child Welfare or a child caring agency is notified before the placement and has approved the placement in writing. The person with whom the child is placed must apply to court for an Order of Adoption no earlier than 6 months and no later than 12 months after the placement was approved. Notice of this application must be given to the child caring agency serving the area where the applicant resides. This is known as a "private adoption".

Any person, or a husband and wife together, wishing to adopt a child living in another country must notify the Director of Child Welfare or a child caring agency at least 3 months before the child is brought into Manitoba. An application for an Order of Adoption must then be made to court. In addition, the requirements of the immigration laws of Canada must be met.

No person may take or send, or try to take or send, a child outside Manitoba for the purpose of adoption without first notifying the Director of Child Welfare or a child caring agency *and* obtaining the written approval of the Director or the child caring agency.

◆Post Adoption Registry for Adults

To protect all the parties involved in an adoption, information surrounding the adoption and the adopted child's background is treated as very confidential. Information which will not identify any of the people involved may be provided to the person who was adopted if he or she is an adult ("adult adoptee"), to an adoptive parent, or to a natural parent.

However, it is recognized that there are some situations where more information should be available. For this reason, the Province of Manitoba has created a "Post-Adoption Registry" which records information *volunteered* by natural parents, adoptive parents and adult adoptees. The Registry is administered by the Adoption Co-ordinator of the Office of the Director of Child Welfare. Natural parents, adoptive parents or adult adoptees may register with this Registry, indicating that they wish to receive information volunteered by the other parties to the adoption. Registration is an entirely voluntary act. The Adoption Co-ordinator cannot seek out or approach any person with a request that they register. The Office of the Director of Child Welfare will provide counselling for any party, if requested.

Where a natural parent, adoptive parent or adult adoptee has indicated that he or she wishes to have personal contact with any other party to the adoption, the Adoption Co-ordinator may arrange for such contact. This will be done only where there has been a similar wish expressed by the other party. At any time, any person may indicate he or she does not wish to proceed further with these arrangements.

A person may withdraw from the Registry at any time.

For more information about the Post Adoption Registry, contact:

The Adoption Co-ordinator
2nd Floor - 114 Garry Street
Winnipeg, Manitoba
R3C 1G3
(Telephone: 945-6962)

CHANGE OF NAME

In general, any person who is 18 years of age or over, and has lived in Manitoba for at least one year, may apply to the Director of Vital Statistics to change his or her name.

There are, however, specific requirements which must be met before the name of a married person or a child can be changed.

◆Change Of Name Of A Woman At The Time Of Her Marriage

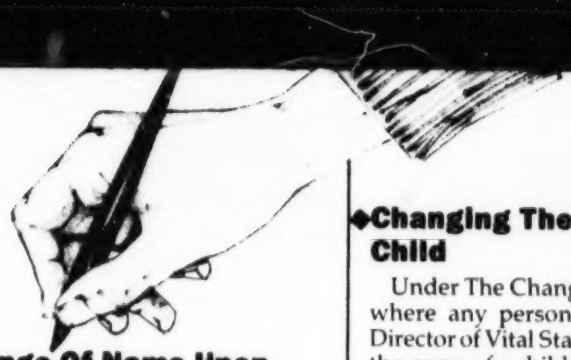
A married woman is not required by law to take her husband's last name upon marriage. She has a right to continue to use the name she used before the marriage, if she wishes to do so.

If a married woman wishes to change her last name to that of her husband, she need only use her husband's last name on documents such as a driver's licence or bank documents. Once she uses her husband's last name in this way, her name is legally changed. It is not necessary to apply to the Director of Vital Statistics for a change of name in these circumstances.

◆Change Of Name During Marriage

If a married person wishes to change his or her name, an application must be made to the Director of Vital Statistics and the application must be accompanied by the written consent of his or her spouse. If there is no consent, the other spouse must be given written notice of the application to give that spouse an opportunity to present his or her position.

For example, if a married woman has used her husband's name and wishes to change back to her maiden name, or if she or her husband wish to hyphenate their two last names, there must be an application for a change of name accompanied by the consent of, or notice to, the other spouse.



◆Change Of Name Upon Separation

A married person who is living separate and apart from his or her spouse may apply to the Director of Vital Statistics for a change of name. He or she must provide one of the following when applying:

- a court order of separation, or
- a valid separation agreement, or
- an affidavit in which the applicant swears that the spouses have agreed to live separate and apart.

In these circumstances, there is no requirement that the other spouse consent to, or be served with notice of, the application.

◆Change Of Name Of A Woman After Divorce

A divorced woman may return to the use of the name she used before her marriage. It is not necessary to apply the Director of Vital Statistics for a change of name in these circumstances.

◆A Child's Last Name

In the past, if the parents of a child were married, the child automatically took the last name of his or her father.

In 1983, The Vital Statistics Act was changed to provide married parents with a choice. Now, their child may be registered using the last name of the father, the last name of the mother, or the last name of the father and the mother combined or hyphenated.

Where the parents of a child are not married, the child is registered using the last name of the mother unless both the father and mother request in writing that another name be used.

◆Changing The Name Of A Child

Under The Change of Name Act, where any person applies to the Director of Vital Statistics to change the name of a child over 12 years of age, that child must consent in writing to the change.

When parents are married and living together, either parent may apply to the Director of Vital Statistics to change the given names or last name of his or her unmarried children under 18 (''infant children''). The other parent must consent in writing to any such change of name.

A married parent who is living separate and apart from his or her spouse, and who has custody of any infant children of the marriage, may apply to the Director of Vital Statistics for a change of name for those children. This application must be accompanied by the written consent of the other parent.

A parent who has been divorced and has been granted custody of any infant children of the marriage may apply to the Director of Vital Statistics for a change of name for these children. The consent of the former spouse is not required and there is no requirement that he or she be given notice of such an application.

Where a woman has custody of her children from a previous marriage and has remarried, she may apply to change the last name of these children to that of her present husband or to a combination of her name and her present husband's name if she has the consent of her present husband and she has mailed notice of the application for change of name to the children's father. Upon receiving such notice, the father may oppose the change of his children's name.

Where a parent is a widower or a widow, he or she may apply to the Director of Vital Statistics to change the name of any of his or her infant children.

◆Wills

It is important to have a will. A will should clearly state who is to inherit a person's property upon his or her death and should appoint an "executor" to deal with this property ("the estate"). Also, if a person has children under 18 years of age, he or she should appoint a guardian in the will to be responsible for the care of these children if both parents die.

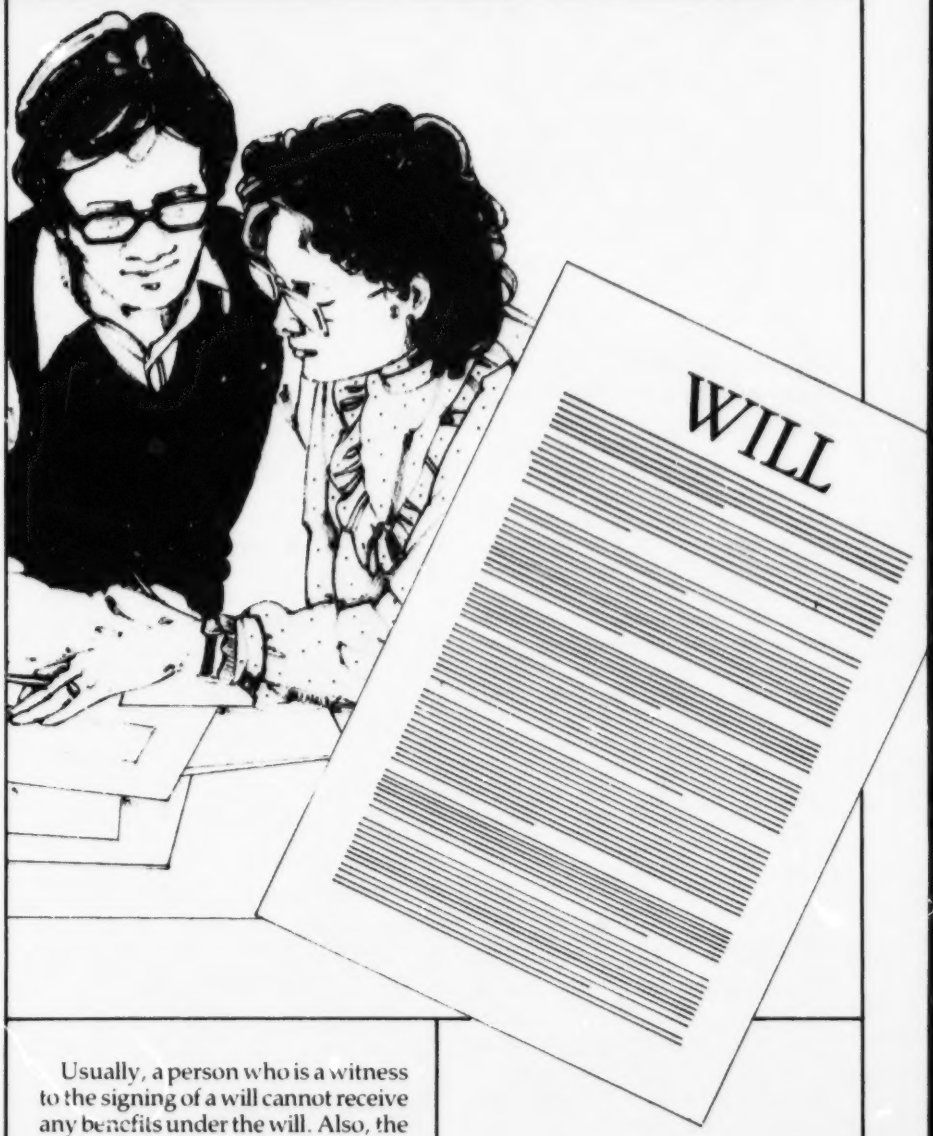
There are three requirements, which must be met before a will is valid in Manitoba:

(i) The maker of the will must be at least 18 years of age, unless
- he or she is, or has been, married; or
- he or she is a member of a military force on active service; or
- he or she is a seaman at sea.

(ii) The will must be in writing.

(iii) The signature of the maker of the will must be witnessed by at least two people unless
- the will is made by a member of a military force on active service or a seaman at sea; or
- the will is written *entirely* in the handwriting of the person making it, and is signed and dated by that person. Such a will is known as a "holograph will".

In 1983, The Wills Act of Manitoba was changed to permit a person to apply to court for an order declaring that a particular document is a valid will even though it does not meet the above legal requirements. Before making such an order, a judge must be satisfied by evidence that the document contains the true wishes of its maker. To avoid the expense and difficulties involved in this type of court hearing, it is advisable to meet all the legal requirements in drawing up a will wherever possible.



Usually, a person who is a witness to the signing of a will cannot receive any benefits under the will. Also, the witness's spouse cannot benefit under the will.

In 1983, the law was changed to permit a witness to a will to apply to court for an order that a gift in the will to that witness or to the spouse of that witness is a valid gift. Before making such an order, it must be proved to the judge's satisfaction that no one improperly influenced or pressured the person making the will to make this gift. To avoid unnecessary problems, it is recommended that a beneficiary under a will, or his or her spouse, should not be a witness to the signing of the will.

◆Property Held In Joint Tenancy

When legal title to property is jointly owned by any two people, upon the death of one of them the other becomes the sole owner of this property. This occurs regardless of the provisions in any will. Therefore, if spouses jointly own any property, upon the death of one spouse the surviving spouse will automatically become the owner of the whole property.

◆Dower Rights Of A Spouse

The Dower Act of Manitoba protects a surviving spouse by guaranteeing that he or she receive, as a minimum, a specific share of the estate of the deceased spouse.

This protection applies even when the deceased spouse has made a will leaving little or nothing to the surviving spouse.

If the marital home is owned by one spouse only and that spouse dies, the surviving spouse has the right to live in the home for the rest of his or her life (a "life interest" in the home), no matter what any will of the deceased spouse provides.

In addition to receiving a life interest in the marital home, the surviving spouse is also entitled to receive one half of the rest of the estate of the deceased spouse unless the deceased spouse has made a will leaving the surviving spouse:

- property valued at $250,000, or
- property valued at $150,000 plus an annual income of $10,000; or
- an annual income of $15,000.

If a surviving spouse had left the deceased spouse prior to his or her death with the intention of living separate and apart, a court may order that the surviving spouse receive no benefits under The Dower Act.

◆Inheritance By A Spouse Or Children Where There Is No Will

A person who dies without leaving a will has died "intestate". In this situation, The Devolution of Estates Act of Manitoba provides that a surviving spouse will receive the whole estate if the deceased person has no children. If there are children, the surviving spouse receives the first $50,000 from the estate, and the rest of the estate, if any, is shared equally between the surviving spouse and the children.

◆Financial Support For A Dependent Spouse Or Children From The Estate

The Testator's Family Maintenance Act of Manitoba provides protection for a person who was dependent upon a deceased person for support. Examples of "dependents" are family members such as a spouse or children.

Where a will exists but does not provide adequately for the maintenance and support of a "dependent", he or she may apply to court under this Act, and the court has the power to change the terms of the will to allow for the maintenance and support of this "dependent" from the estate of the deceased person.

Where no will exists, any "dependent" of the deceased person may apply to court under this Act for maintenance and support from the estate.

The maintenance and support that a judge may order to be paid from an estate under this Act may be in the form of periodic payments, a lump sum payment or a transfer of property.

◆Rights Of A Spouse Or Children Under The Fatal Accidents Act of Manitoba

Where a person has been killed in an accident as a result of a wrongful or negligent act of a third party, that third party can be sued in the courts and may be ordered to pay compensation to the spouse, children or parents of the deceased person.

◆Pension Benefits Upon The Death Of A Spouse Or Parent

The Canada Pension Plan

Spouses or dependent children may be eligible to receive benefits under the Canada Pension Plan upon the death of a spouse or parent who has contributed to the Plan for at least three years after turning 18.

The method of determining eligibility for benefits is complicated. For further information, the local office of the Canada Pension Plan should be contacted. In Winnipeg the address is:

Main Floor, Eaton Place
330 Graham Avenue
Winnipeg, Manitoba
R3C 4C8
(Telephone: 949-3640)

Any application for these benefits should be made as quickly as possible. Delay can result in a loss of benefits.

The Pension Benefits Act of Manitoba

The Pension Benefits Act of Manitoba applies to pension plans sponsored by an employer for employees in Manitoba. It does not apply to the Canada Pension Plan, to federal government employees or to personal pension plans (such as a Registered Retirement Savings Plan).

After January 1, 1985, if a married member of a pension plan to which this Act applies dies while still employed, his or her spouse is entitled to receive pension benefits based on the total amount accumulated in the pension plan. The spouse will not receive a cash payment, but will receive these benefits in the form of a life annuity. Payments from this annuity plan may begin immediately or when the surviving spouse retires.

Since January 1, 1984, when a married member of a pension plan to which this Act applies retires, the pension benefits payable to that member are in the form of a *joint pension*. If the plan member or his or her spouse dies after the member retires, the survivor is entitled to receive pension benefits at a level of at least two-thirds of the original amount. This type of pension provides the spouses with a monthly pension guaranteed for the lives of both of them. In addition, it provides protection for a surviving spouse, as he or she is guaranteed a minimum pension income after the death of the other spouse. In the past, many pension plans guaranteed payments only for as long as the plan member lived, leaving the surviving spouse with no pension income.

The spouses may give up this protection by completing a "Spousal Waiver" form.

For further information about benefits under this Act, contact:

The Pension Commission
1004-401 York Avenue
Winnipeg, Manitoba
R3C 0V8
(Telephone: 945-2740)

◆Death of a Common-Law "Spouse"

A common-law "spouse" will receive property from the estate of a deceased common-law "spouse" only if he or she is mentioned *by name* in the "spouse's" will.

The protection provided by The Dower Act, The Devolution of Estates Act, The Testator's Family Maintenance Act, and The Fatal Accidents Act does not apply to a common-law "spouse".

A common-law "spouse" may be able to make a claim against a specific piece of property of the deceased "spouse" if it can be proved that he or she contributed to the acquisition or improvement of that property. In these circumstances an application to court is necessary.

A common-law "spouse" may be entitled to survivorship benefits under the Canada Pension Plan if the common-law relationship existed at the time of the other "spouse's" death and

- the common-law "spouses" were not prevented by law from marrying each other and had lived together for at least one year prior to the death; *or*
- the common-law "spouses" were prevented by law from marrying each other(for example, one "spouse" was already married to someone else) and had lived together for at least three years prior to the death.

A common law "spouse" is entitled to the same benefits as a married person under The Pension Benefits Act of Manitoba upon the death of his or her "spouse" if one of the above two conditions is met *and* the "spouse" who was the plan member had filed with the administrator of the pension plan a written declaration stating that he or she is living in a common-law relationship with the other "spouse".

◆Children of Unmarried Parents

Children of unmarried parents now have the same right as children born to married parents to inherit from *both* their mother and their father and from others in their family.

Also, The Testator's Family Maintenance Act, The Devolution of Estates Act, and The Fatal Accidents Act (see page 29), all apply to the children of unmarried parents.

◆Taxes on Inheritance

There are no longer any provincial taxes on an inheritance ("succession duties"). However, there may be income tax payable under the federal Income Tax Act where a person has died.

LEGAL ADVICE AND INFORMATION

This booklet is intended to be a general guide to the law only.

To purchase copies of legislation passed by the Manitoba Government, contact:

The Queen's Printer
Manitoba Archives Building
200 Vaughan Street
Winnipeg, Manitoba
R3C 1T5
(Telephone: 945-3100)
(Area Code: 204)

Copies of legislation passed by the Federal Government may be purchased from:

Canadian Government Publishing Centre
Supply & Services Canada
Ottawa, Ontario
K1A 0S9
(Telephone: 997-2560)
(Area Code: 613)

Family law matters are extremely serious and can affect the lives of every member of the family. It is therefore very important to see a lawyer for help where specific questions or disputes are involved.

The Law Society of Manitoba operates a Phone-In Service which directs callers to sources of legal information over the phone, free of charge. In addition, where a person does not have a lawyer and requires legal advice rather than general information, the Lawyer Referral Service operated by the Law Society will refer this person to a lawyer who will provide a half-hour preliminary consultation for a fee of up to $25. After the consultation, there is no obligation to hire that lawyer if the person is not comfortable with him or her. The telephone number to call for these services in Winnipeg is 452-1337; outside Winnipeg, the toll free number to call is 1-800-262-8800.

If a person cannot afford to hire a lawyer, he or she may be entitled to assistance through Legal Aid Manitoba. Legal Aid Manitoba will advise a person whether he or she is eligible for legal aid. Legal Aid Manitoba may pay for all or part of a person's legal costs, depending upon the person's financial position and the merits of the case. A person receiving assistance from Legal Aid Manitoba may choose any lawyer who participates in the Manitoba Legal Aid Plan to act on his or her behalf. If a person needs a lawyer to act outside Manitoba, it may be possible for Legal Aid Manitoba to assist him or her in obtaining such a lawyer.

Legal Aid Manitoba also provides advice, information, and legal assistance to people eligible for legal aid through staff lawyers at the Community Legal Aid Offices located throughout Manitoba. In addition, there is a Legal Aid Clinic at the University of Manitoba Law School which provides assistance in matters of a minor nature which are not handled by Legal Aid Manitoba.

Applications for Legal Aid may be made at any of the Community Legal Aid Offices, or by contacting a lawyer participating in the plan. All Legal Aid Offices, and their telephone numbers, are listed in Appendix E at page 39.

THE FAMILY DIVISION OF THE COURT OF QUEEN'S BENCH — MANITOBA'S UNIFIED FAMILY COURT SYSTEM

On July 1, 1984, the Family Division of the Court of Queen's Bench was established to provide a unified family court system for Manitobans. In the past, divorce proceedings could only be dealt with by the Court of Queen's Bench, adoption matters by the County Court, and child protection cases by the Provincial Court. Custody, access and maintenance could be dealt with by any of those courts and the division of marital property by the Queen's Bench and the County Court only. In spite of the efforts of these courts, lengthy delays and confusion occurred and matters of extreme importance to families could not be dealt with in an expeditious manner. The purpose of the new Family Division of the Court of Queen's Bench is to allow all family law matters to be dealt with by one specialized Court.

Presently, this Family Division is operating in a limited area in the province. Where a person lives in Winnipeg, St. Boniface, or Selkirk, it is the only court which will be able to deal with family law disputes. Where a person does not live in Winnipeg, St. Boniface or Selkirk but lives in the Eastern half of Manitoba, either the Family Division of the Court of Queen's Bench or the Provincial Court can hear certain family matters, such as applications for orders of separation, for orders of custody, access and maintenance arising on separation and child protection cases. Matters such as divorce, custody, access and maintenance arising in divorce proceedings, the division of marital property and adoption arising in this region must be dealt with by the Family Division of the Court of Queen's Bench. For parties living in the Western half of Manitoba, the old rules and procedures still apply. For example, either the general Court of Queen's Bench or the Provincial Court deals with matters such as applications for orders of separation, and for orders of custody, access and maintenance arising on separation. Only the Court of Queen's Bench can hear matters such as divorce, custody, access and maintenance arising in divorce proceedings, the division of marital property and adoption. Only the Provincial Court deals with child protection cases. See Schedule A at pages 33 to 34 for a complete list of Court Offices in Manitoba.

The new Family Division of the Court of Queen's Bench specializes in family law and has the power to hear all family disputes within its geographical jurisdiction. It concentrates upon resolving these disputes in a quick and orderly manner and has introduced procedures, such as pre-trial conferences, to encourage the parties to settle their disputes without the need for a long, bitterly fought trial.

An important service offered by the Family Division of the Court of Queen's Bench is Family Conciliation. Family Conciliation is a professionally staffed counselling unit which helps individuals and families going through marriage breakdown or a breakdown of the family relationship resolve issues of custody or access outside the courtroom.

The Family Conciliation program offers several types of services at *no cost* to the individuals or families involved. It also provides general information and referrals.

The program provides short-term counselling in crisis situations, which may include referring the individual to other agencies for long-term services, such as marriage therapy, personal counselling or legal advice.

To deal with disputes between parents with respect to custody of and access to children, the program provides a mediation service which offers the parents an opportunity sit down with a trained and impartial mediator to work out an agreement that is satisfactory to both parents and recognizes the best interests of their children. This process allows the parties themselves to work out the best arrangements for everyone involved in an informal and open atmosphere and avoids the stress, bitterness and expense of a court battle.

Where a person living in Manitoba has a court order of maintenance and requires assistance in enforcing payments under this order against a spouse, common-law "spouse", or parent living in a "reciprocating state", he or she can obtain this assistance from Family Conciliation. For a list of "reciprocating states" see Appendix B at page 35.

To receive the above services, any individual or family may contact Family Conciliation, or there may be a referral from the court, a lawyer or another agency. For assistance or further information, contact:

Family Conciliation
9th Floor - 405 Broadway Ave.
Winnipeg, Manitoba
R3C 3L6
(Telephone: 945-7236)

In addition to the above services, when ordered to do so by the court, Family Conciliation will provide assessments and recommendations in matters involving the custody of or access to children, or in child protection matters. Such an assessment may become part of the evidence considered by the court in reaching its decision.

Although the new Family Division of the Court of Queen's Bench and its Family Conciliation service presently operates in a limited area of Manitoba only, the Government of Manitoba hopes to be able to expand this unified family court system to operate throughout the entire province.

APPENDIX A

COURT OFFICES IN MANITOBA

Court of Appeal — 945-2647
Room 215 Law Courts Building
411 Broadway Avenue
Winnipeg, Manitoba
R3C 0V8

Winnipeg

Court of Queen's Bench — 945-3024
Room 224 Woodsworth Building
405 Broadway Avenue
Winnipeg, Manitoba
R3C 0V8

Court of Queen's Bench — Family Division — 945-4052
Room 224 Woodsworth Building
405 Broadway Avenue
Winnipeg, Manitoba
R3C 0V8

Provincial Court — Criminal Division — 945-3454
373 Broadway Avenue
Winnipeg, Manitoba
R3C 0T9

Provincial Court — Criminal Division — 945-2457
151 Princess Street
Public Safety Building
Winnipeg, Manitoba
R3B 1L1

Provincial Court — Rural & Traffic Division — 945-3156
207 Donald Street
Winnipeg, Manitoba
R3C 1M5

Provincial Court — Family Division — 945-7130
139 Tuxedo Avenue
Winnipeg, Manitoba
R3N 0H6

St. Boniface

Court of Queen's Bench — 945-8010
227 Provencher Boulevard
Winnipeg, Manitoba
R2H 0G4

Provincial Court — Criminal Division — 945-8004
227 Provencher Boulevard
Winnipeg, Manitoba
R2H 0G4

Beausejour

Court Office — 268-1411
(Queen's Bench & Provincial Court)
20-1st Street South
Beausejour, Manitoba
R0E 0C0

Brandon

Court of Queen's Bench — 727-0597
1104 Princess Avenue
Brandon, Manitoba
R7A 0P9

Provincial Court — Criminal Division — 727-0565
1104 Princess Avenue
Brandon, Manitoba
R7A 0P9

Provincial Court — Family Division — 728-7000
307-340 9th Street
Brandon, Manitoba
R7A 6C2

Dauphin

Court of Queen's Bench — 638-9111 Ext. 401
114 River Avenue W.
Dauphin, Manitoba
R7N 0J7

Provincial Court — Criminal & Family Divisions — 638-9111 Ext. 397
114 River Avenue W.
Dauphin, Manitoba
R7N 0J7

Flin Flon

Court Office — 687-7198
(Queen's Bench & Provincial Court)
203-35 Main Street
Flin Flon, Manitoba
R8A 1J7

Killarney

Court Office — 523-4262
(Queen's Bench & Provincial Court)
417 Broadway Avenue
Killarney, Manitoba
R0K 1G0

Minnedosa

Court House — 867-2238
(Queen's Bench & Provincial Court)
70-3rd Avenue SW
Minnedosa, Manitoba
R0J 1E0

Morden

Court House — 822-4488
(Queen's Bench & Provincial Court)
301 Wardrop Street
Morden, Manitoba
R0G 1J0

Portage la Prairie

Court of Queen's Bench — 857-5641
3rd Street SE
Portage la Prairie, Manitoba
R1N 3K1

Provincial Court — 857-9711
Criminal & Family Divisions
25 Tupper Street N.
Portage la Prairie, Manitoba
R1N 3K1

Russell

Court Office — 773-2980
(Queen's Bench & Provincial Court)
455 Main Street N.
Russell, Manitoba
R0J 1W0

Selkirk

Court of Queen's Bench — 482-5507
321B Main Street
Selkirk, Manitoba
R1A 1T2

Provincial Court — 482-4270
Criminal & Family Divisions
321B Main Street
Selkirk, Manitoba
R1A 1T2

Steinbach

Court Office — 326-2103
(Provincial Court)
225 Reimer Avenue
Steinbach, Manitoba
R0A 2A0

Swan River

Court Office — 734-2252
(Queen's Bench & Provincial Court)
201 4th Avenue S.
Swan River, Manitoba
R0L 1Z0

The Pas

Court House — 623-3491
(Queen's Bench & Provincial Court)
300 3rd Street E.
The Pas, Manitoba
R9A 1L2

Thompson

Court Office — 778-4411
(Queen's Bench & Provincial Court)
59 Elizabeth Drive
Thompson, Manitoba
R8N 1X4

Virden

Court Office — 748-1908
(Queen's Bench & Provincial Court)
247 Wellington W.
Virden, Manitoba
R0M 2C0

APPENDIX B

RECIPROCATING STATES FOR ENFORCEMENT OF MAINTENANCE

1. In Africa:
   Republic of Ghana;
   Republic of South Africa;
   Republic of Zimbabwe;

2. In Asia:
   Republic of Singapore;
   Hong Kong;

3. In Australia and Polynesia:
   Commonwealth of Australia;
   Dominion of New Zealand;
   Fiji;
   Territory of Papua and New Guinea;

4. In Canada:
   Alberta;
   British Columbia;
   New Brunswick;
   Newfoundland;
   Nova Scotia;
   Ontario;
   Prince Edward Island;
   Quebec;
   Saskatchewan;
   Northwest Territories;
   Yukon Territory;

5. In Central America and West Indies:
   Barbados;

6. In Europe:
   England and Northern Ireland;
   Islands of Guernsey, Alderney and Sark;
   State of Jersey;
   The Isle of Man;
   Norway;
   Scotland;
   West Germany;
   Malta;

7. In the United States of America:
   Alaska;
   Arizona;
   Arkansas;
   California;
   Colorado;
   Connecticut;
   Delaware;
   Georgia;
   Hawaii;
   Idaho;
   Illinois;
   Indiana;
   Kentucky;
   Louisiana;
   Maine;
   Maryland;
   Massachusetts;
   Michigan;
   Minnesota;
   Missouri;
   Montana;
   Nebraska;
   Nevada;
   New Hampshire;
   New Jersey;
   New Mexico;
   New York;
   North Carolina;
   North Dakota;
   Ohio;
   Oklahoma;
   Oregon;
   Pennsylvania;
   Rhode Island and Providence Plantations;
   South Dakota;
   Tennessee;
   Texas;
   Utah;
   Vermont;
   Virginia;
   Washington;
   Wisconsin;
   Wyoming.

APPENDIX C

SHELTERS AND COMMUNITY RESOURCES FOR ABUSED SPOUSES

1. MANITOBA COMMITTEE ON WIFE ABUSE

CRISIS LINE — Winnipeg
Phone: 942-3052 (24 hours)

RURAL TOLL FREE LINE
Phone: 1-800-362-3344 (24 hours)

Follow-Up Workers
Phone: 774-4541 (Weekdays)

Office Administration Line
Phone: 774-1794

2. SHELTERS — (these provide a safe place to stay, support and information)

BRANDON, Westman Women's Shelter
Phone: 727-3644 (24 hours)

DAUPHIN Crisis Centre
Phone: 638-8777 — Crisis (24 hours)
638-8707 — Administration

FLIN FLON Crisis & Information Centre
Phone: 687-8255 — Crisis (24 hours)
687-5517 — Administration

MORDEN/WINKLER Crisis Line
Phone: 325-9956 — Crisis (24 hours)
325-9957 — Administration
Box 389 Winkler

THE PAS, Aurora House
Phone: 623-5497 — Crisis (24 hours)
623-7427 — Administration

PORTAGE LA PRAIRIE Women's Shelter
Phone: 239-5232 (24 hours)

THOMPSON, NorthWin House Women's Shelter
Phone: 677-2723 (24 hours)

THOMPSON Crisis Centre
Phone: 778-7273 — Crisis (24 hours)
677-9668 — Administration

WINNIPEG, Osborne House
Phone: 775-8197 (24 hours)

3. CRISIS CENTRES & COMMUNITY COMMITTEES — (these provide assistance, support and information)

ASHERN
Phone: 768-2585 (days)
768-2203 (evenings)

CARMAN
Phone: 745-3891 (evenings)

CHURCHILL
Phone: 675-8881 (24 hours)

CROSS LAKE
Phone: 676-2361

ERIKSDALE
Phone: 739-5416

GIMLI — Box 1991
Phone: 642-8745

GLENBORO
Phone: 827-2711

LAC DU BONNET
Phone: 345-8355

LUNDAR
Phone: 762-5271 (days)
376-5212 (evenings)

MINNEDOSA
Phone: 874-2155

RIVERTON FRIENDSHIP CENTRE
Phone: 378-2927

ROSSBURN
Phone: 859-2829

SANDY BAY
Phone: 843-2369

SELKIRK
Phone: 785-8378

SWAN RIVER
Phone: 734-3495 (Weekdays)

APPENDIX D

CHILD CARING AGENCIES IN MANITOBA

WINNIPEG

1. The Children's Aid Society of Winnipeg **942-0511**
   4-114 Garry Street
   Winnipeg, Manitoba
   R3C 1G1

2. The Children's Aid Society of Eastern Manitoba **233-8931**
   123-B Marion Street
   Winnipeg, Manitoba
   R2H 0T3

3. Winnipeg Regional Offices of Community Services
   Assiniboia District Office **945-8911**
   1981 Portage Avenue
   Winnipeg, Manitoba
   R3J 0J9

   Charleswood District Office **945-7323**
   Building 3 — 139 Tuxedo Avenue
   Winnipeg, Manitoba
   R3N 0H6

As of April 1, 1985 the above three agencies will be replaced by the following six regional agencies:

- Northwest Child & Family Services Agency **945-5130**
- Northeast Winnipeg Family & Child Extended Social Services **945-5140**
- Child and Family Services of Winnipeg West **945-5120**
- Child and Family Services of Central Winnipeg **945-5110**
- Winnipeg South Child and Family Services **945-5160**
- The Children's Aid Society of Eastern Manitoba **233-8931**

4. Jewish Child and Family Services **943-6425**
   10th Floor — 228 Notre Dame Avenue
   Winnipeg, Manitoba
   R3B 1M7

5. Southeast Child and Family Services **477-6050**
   202 — 511 Ellice Avenue
   Winnipeg, Manitoba
   R3B 1Y8

6. Emergency 24 hour service **945-5050**

ASHERN

Ashern District Office, Interlake Region **768-2585**
Manitoba Community Services
Thorwill Building
Ashern, Manitoba
R0G 0G9

BEAUSEJOUR

Eastman Regional Office **269-1411**
Manitoba Community Services
20-1st Street South
Beausejour, Manitoba
R0E 0C0

BRANDON

The Children's Aid Society **728-7000**
of Western Manitoba
340-9th Street
Brandon, Manitoba
R7A 6C2

Dakota Ojibway Child & Family Services **725-3560**
702 Douglas Street
Box 322
Brandon, Manitoba
R7A 5Z2

CHURCHILL

Outreach Services **675-8881**
Churchill Health Centre
Churchill, Manitoba
R0B 0E0

DAUPHIN

Parklands Regional Office **638-7024**
Manitoba Community Services
15-1st Avenue SW
Dauphin, Manitoba
R7N 1R9

FLIN FLON.

Flin Flon District Office **687-3457**
Norman Region
Manitoba Community Services
P.O. Box 550 — 50 Church Street
Flin Flon, Manitoba
R8A 1N4

GILLAM

Gillam District Office
Thompson Region — **652-2121**
Manitoba Community Services
Box 99 — L.G.D. Building
Gillam, Manitoba
R0B 0L0

ISLAND LAKE

Awasis Agency of Northern Manitoba — **456-2306**
Island Lake Sub-Office
Garden Hill Band Office
Garden Hill, Manitoba
R0B 0T0

PORTAGE LA PRAIRIE

The Children's Aid Society — **857-8751**
of Central Manitoba
25 Third Street SE
P.O. Box 190
Portage la Prairie, Manitoba
R1N 3B5

SELKIRK

Interlake Regional Office — **452-4511**
Manitoba Community Services
202 — 446 Main Street
Selkirk, Manitoba
R1A 1N7

SWAN RIVER

Swan River District Office — **734-3436**
Parklands Region
Manitoba Community Services
201 — 4th Avenue S.
Swan River, Manitoba
R0L 1Z0

THE PAS

Norman Regional Office — **623-6411**
Manitoba Community Services
Box 2550
The Pas, Manitoba
R9A 1M4

Awasis Agency of Northern Manitoba — **623-7456**
The Pas Sub-Office
Otineka Mall
Box 3910
The Pas, Manitoba
R9A 1K6

THOMPSON

Thompson Regional Office — **778-7371**
Manitoba Community Services
871 Thompson Drive S.
Thompson, Manitoba
R8N 0C8

Awasis Agency of Northern Manitoba — **677-4545**
North Centre Mall
3 Station Road
Thompson, Manitoba
R8N 0N3

APPENDIX E

Legal Aid Offices

Legal Aid Manitoba (Head Office) **947-6501**
402-294 Portage Avenue
Winnipeg, Manitoba
R3C 0B9

Main Street Community Legal Services **586-9711**
862 Main Street
Winnipeg, Manitoba
R2W 3P1

Ellen Street Community Legal Services **943-0491**
395 Notre Dame Avenue
Winnipeg, Manitoba
R3B 1R2

LaSem Community Legal Services **233-4538**
401 Provencher Boulevard
Winnipeg, Manitoba
R2H 0G9

Youth Office **895-9777**
Building 30 — 139 Tuxedo Avenue
Winnipeg, Manitoba
R3N 0H6

Parklands Community Legal Services **638-8006**
19 Memorial Boulevard
Dauphin, Manitoba
R7N 2A5

Westman Community Legal Services **727-0633**
136-11th Street
Brandon, Manitoba
R7A 4J4

Northlands Community Legal Services **623-6427**
162 Fischer Avenue
The Pas, Manitoba
R9A 0K1

59 Elizabeth Drive **778-4411**
Thompson, Manitoba
R8N 1X4

Selkirk Advice Office **482-7595**
Box 220, 407 Main Street
Selkirk, Manitoba
R1A 2B2

University of Manitoba Law Centre **269-9610**
Faculty of Law
Robson Hall
University of Manitoba
R3T 2N2